

Public Utilities

FORTWIGHTLY

Volume XLV No. 8



April 13, 1950

WILL THE NEW JERSEY PLAN WORK DURING AN ERA OF ECONOMIC CHANGE?

Part I.

By J. Rhoads Foster

« »

Nationalization, a Partly Accomplished Fact

By Elmer L. Lindseth

« »

The March of the Gas Transmission Lines

By Louis J. Zitnik

« »

Stock Purchase Plans for Employees

Part II.

By Richard A. Rosan



Above, Barber 324-B Automatic Conversion Burner. Tested and certified by AGA Laboratory under new listing requirements.

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Public Utilities

FORTNIGHTLY

VOLUME XLV

APRIL 13, 1950

NUMBER 8



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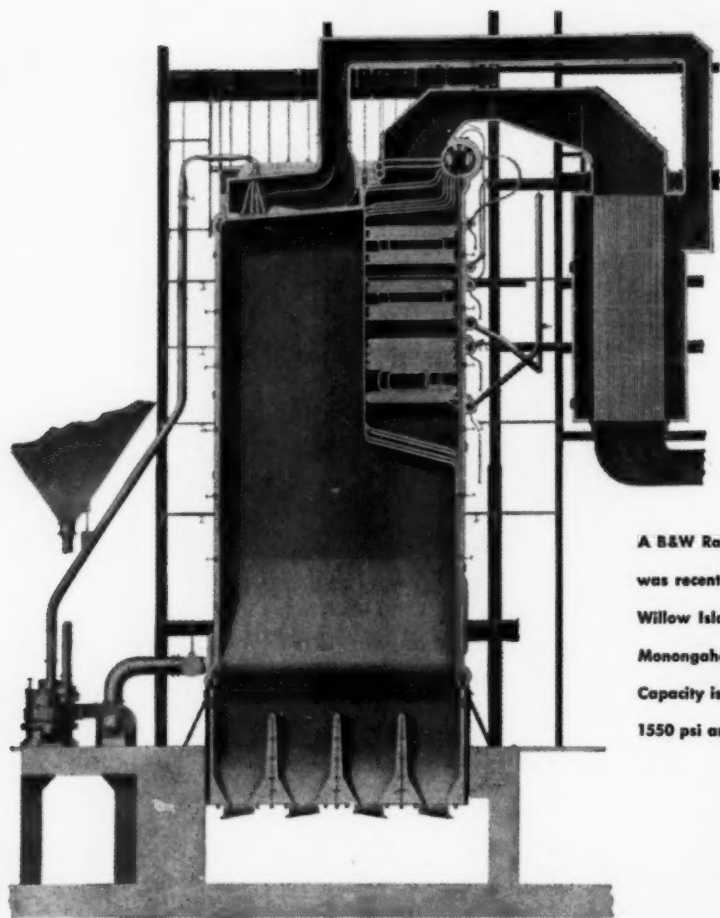
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A B&W Radiant Boiler of this type was recently placed in service at Willow Island Station of the Monongahela Power Company. Capacity is 500,000 lb. per hour at 1550 psi and 950 F.



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WILLOW ISLAND STATION

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G-47



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& WILCOX**

Pages with the Editors

THERE is no gainsaying the fact that various experiments with quasi automatic regulation of utility rates have had pretty hard sledding in the United States. Probably the most successful and celebrated was the so-called "Washington plan" put into effect during the early twenties to govern electric rates charged in the District of Columbia.

BUT the basic difficulty with the Washington plan, as with all other varieties of profit-sharing automatic rate adjustment arrangements, is the fact that there is necessarily an inequality of the participating parties. After all, any arrangement for automatic rate adjustment has to be reduced to a contract, for practical purposes of adjustment and administration. And what kind of a contract can we ever have between a regulatory arm of the government and a regulated public utility under the law?

SINCE the regulatory arm of the government can never barter away its sovereign powers we have, as a result, a contract which is subject to changes at the option of one party but not of the other. And if equality of terminating power is attempted, we have an even less stable

contract—one which can remain in effect only at the pressure of either party.

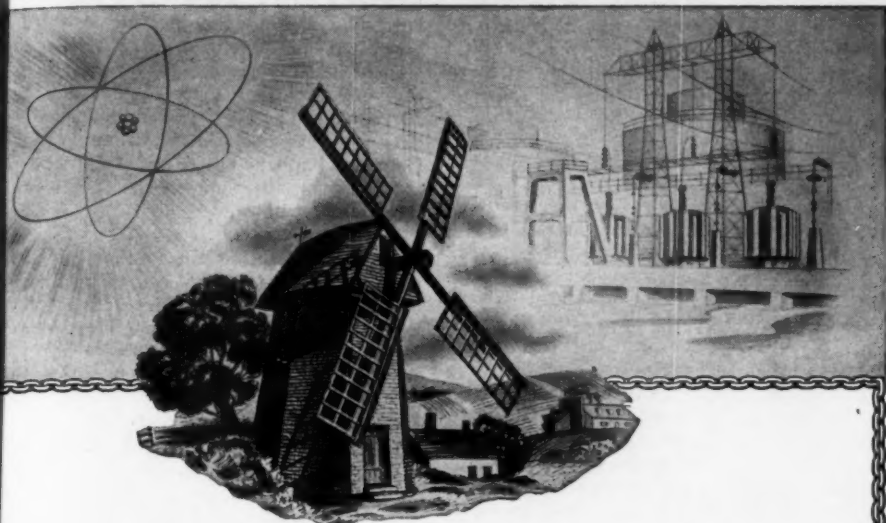
DURING the past six years another experiment along this line has been tried in New Jersey. It is the so-called New Jersey Rate Adjustment Plan. It featured a reserve calculated to cushion the need for rate increases during adverse economic periods. It also featured an arrangement for determining the utility's rate of return on the basis of prevailing money-market conditions and investment requirements. Now, the same bugaboo has threatened the New Jersey plan—just as it threatened the Washington plan and the earlier arrangements in Boston, El Paso, and elsewhere. It is the same old story of pressure resulting from economic changes due to the more or less inflationary period through which we are passing.

NOTICE has recently been given to the New Jersey Board of Public Utility Commissioners that the New Jersey Power & Light Company desires to terminate its further operation under the so-called New Jersey Rate Adjustment Plan, adopted by agreement in 1944. This action should focus, once more, the attention of those interested in utility regulation on the problems which have arisen under actual operation of this interesting experiment in quasi automatic regulation. Does the alleged failure of the New Jersey utility to earn the plan's basic rate of return mean that the program lacks elasticity to meet economic changes?

DR. J. RHOADS FOSTER, author of this article on the New Jersey plan, is particularly well qualified because he had a large part in the original drafting of the plan. A native of Missouri, he was educated at the University of Missouri (PhD, '33), Columbia University, and the New York University. He joined the Consolidated Edison Company as a rate engineer in 1933. He became an econo-



J. RHOADS FOSTER



Has your financing program kept pace with the times?

• Quite a change from the stately old windmill to a modern power plant. And from the capital markets of former years to those of today.

Has your organization a comprehensive program geared to present-day financial conditions? Are your financing methods and your approach to the financial

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mist on the New Jersey Board of Public Utility Commissioners in 1937. Since 1942, he has been teaching public utility economics and public utility law at New York University, as well as engaging in private consulting practice.

* * * *

THE author of the article entitled "Nationalization, a Partly Accomplished Fact," beginning on page 475, hardly needs an introduction to the readers of this publication. But we would like to record the fact that ELMER L. LINDSETH, hard-hitting president of the Edison Electric Institute, as well as head of the Cleveland Electric Illuminating Company, is one American citizen whose career is a classical example of the American success story in the true Horatio Alger pattern. He was born in Chicago in 1902, the son of a Swedish immigrant who was then a blacksmith and later became a foreman on the New York Central Railroad in Cleveland.

AFTER public high school education in Cleveland, LINDSETH earned a scholarship to the Case Institute of Technology and later graduated on another scholarship from Miami University, Oxford, Ohio (BA, '23). He pursued graduate studies in engineering at Yale University on a teaching fellowship, earning a Master of Science degree. While at Yale he

received a "break" when Walter Wohlenberg, now Dean of Engineering at Yale, permitted him to collaborate on a discussion of boiler performance at a meeting of the American Society of Mechanical Engineers. The chief power plant engineer of Cleveland Electric Illuminating Company happened to be in the audience. LINDSETH at the time was working for the company he now heads.

AFTER a series of promotions along the engineering line he became executive vice president in 1945 and succeeded to the top spot shortly after when his predecessor died in office.

* * * *

SOMETIME ago LOUIS J. ZITNIK, with the Los Angeles firm of Kerr & Co., attempted to determine whether the record natural gas expansion program now going on all over the United States has a sound foundation. The author made a comparative cost analysis of natural gas, coal, and fuel oil. He delved into the financing, credit, and regulation factors; he charted the rôle pipelines must play in the national economy of the future. The resulting picture surprised the author himself. In this issue the author's conclusions are contained in the article "The March of the Gas Transmission Lines," beginning on page 484.

* * * *

ALSO in this issue is the concluding installment of the 2-part series of articles on the subject "Stock Purchase Plans for Employees." The advantages and disadvantages of selling public utility shares to employees have been examined from a most objective point of view. RICHARD A. ROSAN, New York attorney, gives us a description of the prizes and pitfalls to be weighed in determining whether to adopt a program. Part II deals with actual examples of stock purchase plans for employees.

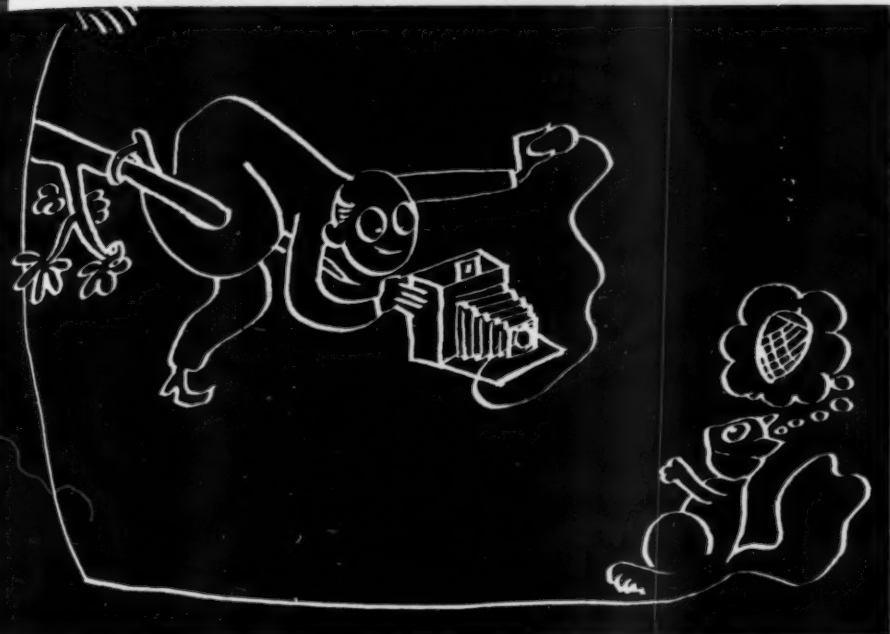
THE next number of this magazine will be out April 27th.



ELMER L. LINDSETH

APR. 13, 1950

The Editors



Have you an up-to-date picture?

Do the facts in your hands now give you a clear, true picture of your consumers' usage data . . .

. . . or are your statistics (pardon us) out of focus?

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Coming IN THE NEXT ISSUE



FLY ASH DISPOSAL—HOW TO BE OPTIMISTIC THOUGH VEXED!

Utilities, long irked by small particle residues resulting from combustion of solid fuels, have a chance of redress in this new disposal of the accumulated by-product. Fly ash, as such matter is popularly termed, can be put to work at a surprising number of worth-while jobs. The author, Howard J. Carswell of the Bituminous Coal Institute, introduces the word "pozzolan" to the lexicon of engineering—in connection with coal-consuming power plant operations. For the origin of this word he takes us back through the centuries, citing an interesting prototype put to man's purposes in the heyday of an earlier civilization.

UTILITY FINANCING BEGINS AT HOME

An account of how one utility company turned over to a specialist, a program for selling company shares to its own customers and others in its own state. John P. Callahan, utility news writer of *The New York Times*, tells how a healthy growth of grass-roots ownership was the pleasing result.

WHY LIFE INSURANCE COMPANIES BUY NATURAL GAS PIPE-LINE BONDS

Ernest Abrams, New York author of business and economic articles, has endeavored to determine whether the record natural gas expansion program now going on all over the United States has a sound foundation. He has made a comparative cost analysis of natural gas, coal, and fuel oil. He has weighed the financing, credit, and regulation factors. He charted the rôle pipelines must play in the national economy of the future. The resulting picture should interest not only those connected with the natural gas industry, but all concerned with similar problems of utility plant financing.

WILL THE NEW JERSEY PLAN WORK DURING AN ERA OF ECONOMIC CHANGE? PART II

Notice has recently been given to the New Jersey Board of Public Utility Commissioners that the New Jersey Power & Light Company desires to terminate its further operation under the so-called New Jersey Rate Adjustment Plan, adopted by agreement in 1944. This action should focus, once more, the attention of those interested in utility regulation on the problems which have arisen under actual operation of this interesting experiment in quasi automatic regulation. Part II of this series, by J. Rhoads Foster, discusses the relation of earnings stability to investment value and to cost of capital.



Also . . . *Special financial news, digests, and interpretations of court and commission decisions, general news happenings, reviews, Washington gossip, and other features of interest to public utility regulators, companies, executives, financial experts, employees, investors, and others.*

This announcement appears as a matter of record only and is under no circumstances to be construed as an offering of these securities for sale, or as an offer to buy, or as a solicitation of an offer to buy, any of such securities. The offering is made only by the Prospectus.

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March 28, 1950.

Remarkable Remarks

"There never was in the world two opinions alike."

—MONTAIGNE

DOUGLAS MCKAY
Governor of Oregon.

"I want to urge the vital importance of protecting and preserving our system of free government. We have no greater resource to conserve!"

BRADLEY DEWEY
*President, Dewey & Almy
Chemical Company.*

"We can quickly lose technical superiority if we permit misguided zealots to whittle down industry or to stunt wholesale, healthy growth to bigness."

PETER EDSON
Columnist.

"... of all the pressure groups operating in Washington, union labor headquarters now are the most vocal and put out the largest volume of stuff."

CHARLES SAWYER
Secretary of Commerce.

"Management should go a long way to recognize that the interests of capital and labor are mutual and not antagonistic. Labor should do the same."

ROSSELL MAGILL
*Former Under Secretary of
the Treasury.*

"We need to give dividends from common stock equal treatment with debt obligations so that equity financing can be brought out of the current slump."

DON G. MITCHELL
*President, Sylvania Electric
Products, Inc.*

"Remember that public opinion is not made in Washington, but is back home with your employees and the communities in which you live and operate."

HENRY H. HEIMANN
*Executive manager, National
Association of Credit Men.*

"Our early leaders had a great appreciation of the homely virtues of thrift and humility and of the doctrine that the government is best which governs least."

HERMAN W. STEINKRAUS
*President, Chamber of Commerce
of the United States.*

"The valley authority program is a vicious one that would put in the hands of a few men absolute control of our industrial economy through political monopolization of electric power."

HENRY M. WRISTON
President, Brown University.

"[Profits as a means to an end] are as necessary as fuel for a boiler. If they are hoarded, sterilized, even small profits are too great. If they are put to the service of production, if they are a means to larger employment, to steadier employment, to more gainful employment, then they cannot be 'too great'!"

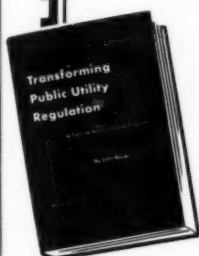
IMPORTANT READING For All Public Utility Officials

TRANSFORMING PUBLIC UTILITY REGULATION

A Definite Administrative Program

By *John Bauer*, Director
American Public Utilities Bureau

One of the nation's outstanding experts in public utility regulation has here written the first comprehensive treatise on regulation published since the war. Looking toward bringing public utility operations into line with postwar conditions, Dr. Bauer sets forth a program which he considers both practical and essential to assure efficient private control in the public interest. His proposals will interest a wide audience of public officials, public utility executives, legislators and regulatory bodies. **\$5.00**

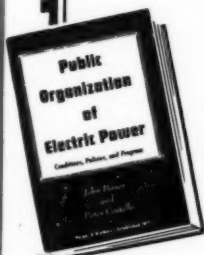


PUBLIC ORGANIZATION OF ELECTRIC POWER

Conditions, Policies and Program

By *John Bauer* and *Peter Costello*

"This volume should exercise a powerful influence on the electric power industry in the United States for the next fifty years."—*Carlton L. Nau*, General Manager, American Public Power Association. "... a powerful factual argument for public ownership of the electric service business . . . This book should help stimulate thinking and discussion about better ways to promote evolution of the nation's power development."—*Gordon R. Clapp*, Chairman, TVA. **\$4.00**



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REMARKABLE REMARKS—(Continued)

H. G. BATCHELLER
*President, Allegheny Ludlum
Steel Company.*

"Communism and Socialism are the penalties of economic ignorance."

JAMES F. BYRNES
Former Secretary of State.

"I want a government that will live within its income and without most of yours."

G. METZMAN
*President, New York Central
System.*

"There is no question that the elimination of wartime taxes on transportation would be definitely helpful."

HENRY C. DWORSHAK
U. S. Senator from Idaho.

"For the first time in nearly twenty years, there seems to be a genuine popular trend for balancing the budget."

ARTHUR CAPPER
*Former United States Senator
from Kansas.*

"In my opinion the 'reddest' menace that faces the people of the United States is the menace of government red ink."

ROBERT L. JOHNSON
President, Temple University.

"The Hoover report cannot make or break the Federal budget but it can mean the difference between a surplus or deficit."

EMIL SCHRAM
*President, New York Stock
Exchange.*

"The soundest and most effective way to move more money into equities is by removing the obstructions from the Federal tax structure."

E. F. MANSURE
*President, Illinois Manufacturers'
Association.*

"One of the principal obstacles to continuing high consumer demand, which is necessary for mass production, is our tremendous tax burden."

EDITORIAL STATEMENT
The Journal of Commerce.

"Higher taxes strike directly at plant and equipment expenditures by industry. And such outlays are a major prop sustaining business activity today."

JOSEPH W. MARTIN, JR.
*U. S. Representative from
Massachusetts.*

"Big government saddles upon the people a crazy quilt of regulations, controls, forms, and red tape. Big government reduces human beings to mere lifeless statistics."

EDITORIAL STATEMENT
Chicago Journal of Commerce.

"AT&T and its subsidiaries are doing enough legitimate business not to require the shady money of bookies and touts. No telephone transmitter has yet been devised for people who talk out of the sides of their mouths."

VICTOR LEA
Economist, Standard Brands, Inc.

"[Without proper information about the American system in their possession] the people will go into the stores and vote for your products by purchasing them, and then go to the polls and vote you out of business."

For Heavy Duty Steam Generating Plants

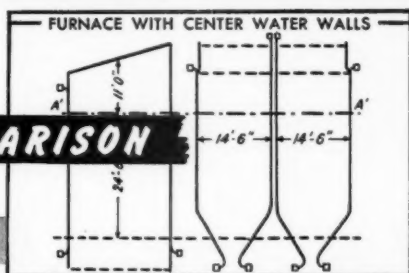
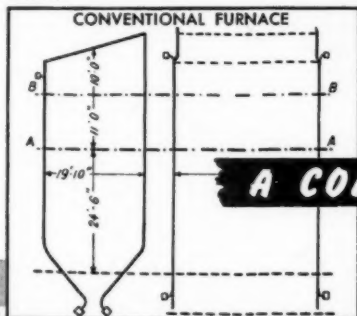
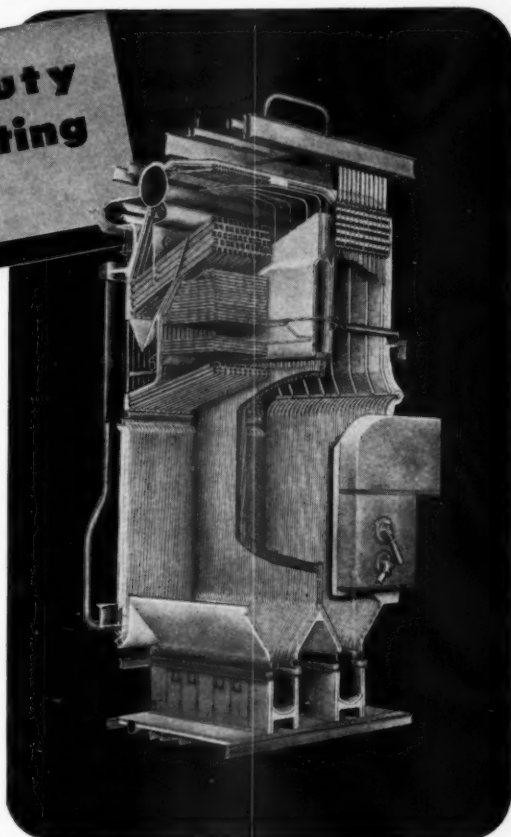
Springfield's

DIVIDED FURNACE WITH CENTER WATER WALL

The divided furnace with a **CENTER WATER WALL*** is a development first introduced by Springfield Boiler Co., for large central station installations. It has application where gas temperatures entering the first pass and superheater must be limited to prevent slagging. It enables a unit to stay on the line longer before shutting down for maintenance and cleaning.—

The divided furnace construction has been highly dependable and successful in service. It is adaptable to any kind of firing. Springfield offers it on both bent tube and straight tube boiler designs.

*Patented



A COMPARISON

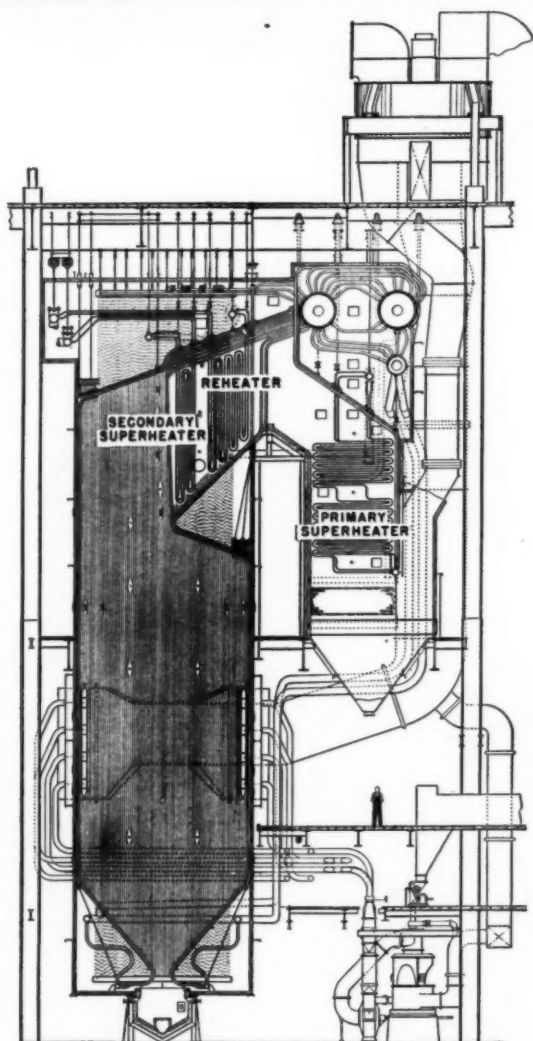
These diagrams show how the center water wall made it possible for Springfield to reduce the height of furnace 22% on one 350,000 lb. pulverized coal fired unit in addition to securing some 90° lower temperature at the first pass. Ask for information on this and other modern installations.

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C-E REHEAT BOILERS



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DUNKIRK STEAM STATION

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The C-E Unit, shown here, is one of two duplicate steam generating units of the reheat type soon to go into service at the Dunkirk Steam Station of the Niagara Mohawk Power Corporation.

Each of these units will serve a 100,000 kw turbine generator operating at an initial steam pressure of 1450 psi and a temperature of 1000 F reheated to 1000 F.

The units are of the radiant type with a reheater section located between two stages of the primary superheater surface. A finned tube economizer is located below the rear superheater section, and regenerative air heaters follow the economizer surface.

The furnaces are fully water cooled, using closely spaced plain tubes throughout. They are of the basket-bottom type, discharging to sluicing ash hoppers.

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B-385A



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Printing Calculator



'97' Printing Calculator



Electri-economy Typewriter



Super-riter



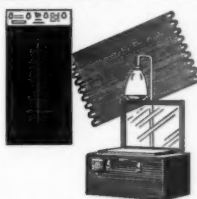
Noiseless Deluxe
Gray Typewriter



Nylon Typewriter Ribbon—
Patrician Carbon Paper
and Typewriter Ribbon



Line-a-time
Copy Holder



Stencils, Plastiplates
and Plastiphoter



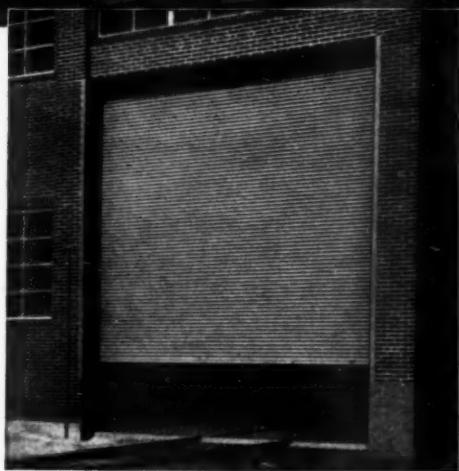
Remington Rand

For your needs
we have no reason
to recommend anything but
the right machines and systems.
We make them all



Above: New Diesel Locomotive Maintenance Shop, Lake Terminal Railroad Company, Lorain, Ohio.

**Their
rugged,
durable
dependability
means**



Highest Efficiency at Lowest Cost

These famous doors make all floor, wall and ceiling space around doorways fully usable at all times. They need no overhead storage space to open into. Materials, or equipment can be placed within an inch or two of the door curtain, inside or outside, without blocking its smooth, easy coiling upward action.

But space-saving efficiency is only one of many reasons why Kinnear Rolling Doors are so widely preferred. The Kinnear-originated interlocking steel slat construction has proved its extra value and long-run economy in many other ways.

Coiling completely out of the way above the lintel when opened, Kinnear Rolling Doors stay out of reach of damage by wind or vehicles. Their rugged, all-metal construction assures long service and low maintenance—plus an extra measure of protection against theft, intrusion, fire, wind, and weather.

Kinnear Rolling Doors are "tailored" to each individual opening. They may be equipped with Kinnear Motor Operators, controlled from push-button switches, placed at any number of convenient points in the building, or at other remote points. Write for complete information.

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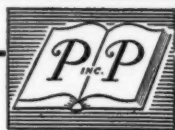
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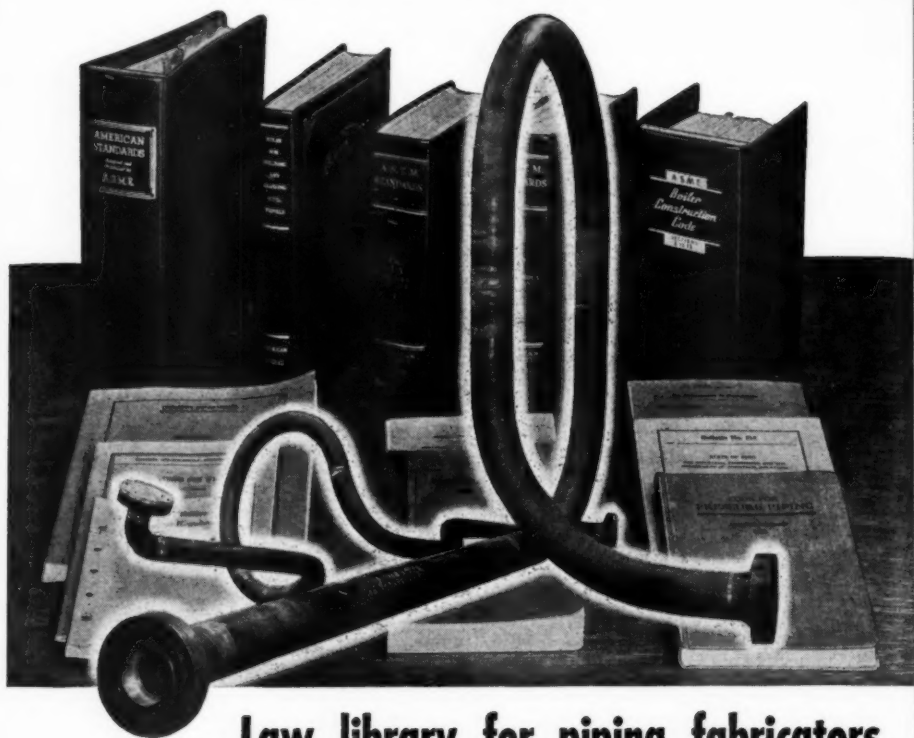
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Utilities Almanack



APRIL



13	T ^a	† Southwestern Gas Measurement Short Course ends, Norman, Okla., 1950.
14	F	† New Jersey Society of Professional Engineers begins meeting, Newark, N. J., 1950.
15	S ^a	† New England Radio Engineers begin meeting, Boston, Mass., 1950.
16	S	† Indiana Gas Association will hold annual meeting, French Lick, Ind., Apr. 28, 29, 1950.
17	M	† Electric and Gas Utility Accountants begin conference, Louisville, Ky., 1950. † Northwest Public Power Asso. begins convention, Spokane, Wash., 1950. 
18	T ^a	† Indiana Electric Association begins Young Men's Utility Conference, Indianapolis, Ind., 1950.
19	W	† Electrochemical Society begins annual convention, Cleveland, Ohio, 1950. † National Association of Broadcasters ends convention, Chicago, Ill., 1950.
20	T ^a	† American Institute of Electrical Engineers ends power conference, Pittsburgh, Pa., 1950.
21	F	† American Water Works Association, Montana Section, begins annual meeting, Missoula, Mont., 1950.
22	S ^a	† Florida-Georgia Association ends annual business conference, Palm Beach, Fla., 1950.
23	S	† Chamber of Commerce of the United States will hold annual meeting, Washington, D. C., May 1-4, 1950.
24	M	† Ohio Independent Telephone Association begins annual convention, Columbus, Ohio, 1950.
25	T ^a	† Pennsylvania Electric Association begins accounting conference, Pittsburgh, Pa., 1950. 
26	W	† American Water Works Association, Indiana Section, begins annual meeting, Lafayette, Ind., 1950.

Early Signs of Spring

Laying telephone coaxial cable in the Cascade mountains.



*Courtesy, Pacific Telephone & Telegraph Company
Photo by C. K. Sparks*

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Public Utilities

FORTNIGHTLY

VOL. XLV, No. 8



APRIL 13, 1950

WILL THE NEW JERSEY PLAN WORK

During an Era of Economic Change?

PART I

Notice has recently been given to the New Jersey Board of Public Utility Commissioners that the New Jersey Power & Light Company desires to terminate its further operation under the so-called New Jersey Rate Adjustment Plan, adopted by agreement in 1944. This action should focus, once more, the attention of those interested in utility regulation on the problems which have arisen under actual operation of this interesting experiment in quasi automatic regulation.

By J. RHOADS FOSTER*

THE New Jersey Rate Adjustment Plan, hereafter called, simply, the plan, is essentially a method of rate regulation, developed in the belief, expressed by Mr. Justice Jackson in Federal Power Commission v.

East Ohio Gas Co., that "diversity of experimentation in the field of regulation has values which centralization and uniformity destroy." It established procedures to be expeditiously applied in adjustment of rates so that returns to the utility would be fair and reasonable but not excessive. It was intended

*For personal note, see "Pages with the Editors."

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to provide an avenue of escape from the frequently time-consuming, costly, and uncertain experiences with rate case proceedings.¹

The New Jersey Power & Light Company announced on March 3rd that it had notified the board of public utility commissioners of the state of New Jersey that it was exercising its right to discontinue the use of the plan as the means of regulating its charges for electricity, effective December 31, 1949.

ACCORDING to the company's statement, the actual earnings for two years have been below the basic return called for by the plan. In order to provide its customers with a continually expanding system capable of caring for their growing requirements of electricity, the claim was made that earnings should be increased without delay to a fair return, in order to continue to attract the necessary capital and to have funds available for paying the increased costs of doing business.

The company contended that if the rate plan was to accomplish the objective of preventing substantial rate increases during periods of low business activity that withdrawals from the stabilization reserve should cease and steps taken to build up the reserve now. The company also felt that the rate of return of 5.29 per cent earned under the plan in 1948 was too low to insure the company's obtaining at favorable rates additional capital funds with

which to continue its construction program.

New Jersey Power & Light Company applied to the board for approval of deviations from the plan, including approval of a general rate increase during 1949 (Docket No. 4496). The board denied the application in a decision dated January 4, 1950. It held, in effect, that the process of revising the provisions of the plan should be "orderly and always disassociated from the process of applying the methods promulgated in the plan."

The board of commissioners, however, said that

If the company believes that any of the plan formulae do not produce fair and reasonable results because of changed circumstances or for other reasons, this board will give careful consideration to any revisions which the company may desire to propose either as to the rate of return formula or other aspects of the plan.

IT was expected that the New Jersey plan would be revised whenever, because of changed circumstances or for any other reason, the results of its application cease to be fair and reasonable and in the public interest. Procedural facility is not within itself an appropriate end of utility regulation.² Unless the administration of the plan is approached in this spirit, its provisions will become rigid and inflexible and will fail to provide results fair to both investors and consumers. Surely, if it is impossible to adjust the formulae to changes in economic conditions, so that the results meet the economic tests of reasonableness, the rate

¹ See PUBLIC UTILITIES FORTNIGHTLY, Vol. XXXIII, No. 11, pages 663-685, May 25, 1944, for descriptions and analyses of the New Jersey Rate Adjustment Plan, and *Re* New Jersey Power & Light Co. (1944) 53 PUR NS 1-12, for the board's order and the text of the plan.

² PUBLIC UTILITIES FORTNIGHTLY, Vol. XXXIII, No. 11, page 674, May 25, 1944; Vol. XXXVIII, No. 6, pages 352-360, September 12, 1946.

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adjustment plan as a regulatory method is not likely to survive.

The present is therefore an appropriate occasion for analysis of some of the principles and criteria which are relevant to a determination of fair and reasonable returns to utility enterprises. Specific questions as to whether the rate of return, stabilizing reserve, or other provisions of the plan should now be revised, and as to the appropriate forms of such revisions, are not here and now under discussion.

Already Experienced Economic Change

THE starting rate base established by the rate adjustment plan for the year 1944 was \$16,900,000. Since adoption of the plan the level of prices has risen by 40 per cent.³ The rate base of \$16,900,000 may be assumed to have provided a fair return as of 1944, but, subject to the effects of subsequent retirements of plant, the \$16,900,000 is equal to \$23,700,000 in terms of a dollar of current size and purchasing power.

The rate base for the purposes of the plan is a modified "prudent investment" rate base. The definition of "rate base" rejected the ideas (1) that the

³ The 40 per cent is used to indicate that the price rise has been substantial, without regard to the relative significance, for the purpose of rate regulation, of change (a) in prices of consumers' goods, (b) in general construction costs, or (c) in the cost of constructing specific utility plant.

rate base should be limited to amounts originally invested by the person first devoting the existing property to the public service, and (2) that the accumulated balance in the depreciation reserve should be in its entirety deducted in determining the rate base. It was recognized and understood that a prudent investment rate base does not represent either the cost of reproducing an identical plant or the cost of constructing the most economical plant capable of supplying the same service.

The rate base forecast for 1950 is in excess of \$35,500,000. The New Jersey Power & Light Company is engaged in a construction program involving expenditures totaling more than \$23,000,000 over a 5-year period. These expenditures, which will double the rate base, are being made in largest part at the current high level of construction costs. All gross additions to used and useful plant, made since January 1, 1944, have been added to the rate base and reflect whatever may have been the actual cost of construction. Similarly, the actual prudent cost to the company of plant which is no longer used and useful is deducted from the rate base. About \$15,000,000 of the gross additions have been made at the levels of construction costs which prevailed in 1948 and 1949.

ASSUMING that the rate of return provided by the plan formula corresponds to the actually experienced



"UNECONOMIC and inequitable results have been alleged to be associated with the 'fair value' rule but they reflect procedural limitations of the rule as construed, rather than any inherent invalidities of replacement cost as evidence in determination of a fair return."

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cost of the capital employed, there is no question of the ability of the company to attract new and additional capital on reasonable terms. At least this is true unless the treatment of the old investment is unfair and puts the new investment on notice that it may be unfairly treated in the future, thereby adding to investment risk and hazard.

The return provided by the plan for the capital currently being invested is fair and reasonable, since it is measured (a) by the amount of capital required, expressed in dollars of current purchasing power, and (b) by a rate of return which corresponds to the current cost per dollar of the new and additional capital.

The real question posed is whether the regulatory treatment of the old investment under the plan continues to be fair and reasonable.

Procedural Advantages and Disadvantages

THE advantages of a regulatory method under which the rate base may be determined by reference to the books of accounts are largely procedural rather than economic or equitable.

On the other hand, the relative procedural disadvantages of replacement cost less depreciation as the rate base or as evidence of "fair value," while significant, have been much exaggerated for the purposes of the attack on the *Smyth v. Ames* doctrine. The alleged administrative difficulties are generally of three categories. First, that the engineering estimates vary widely and are unreliable; second, that even if the evidence were reliable, the result is unstable under the impact of changing conditions; and, third, that

the cost in time and expense is excessive.⁴

Uneconomic and inequitable results have been alleged to be associated with the "fair value" rule but they reflect procedural limitations of the rule as construed, rather than any inherent invalidities of replacement cost as evidence in determination of a fair return. The disadvantages of recognition of changed economic conditions cannot be economic in character. They are procedural when they may be overcome by mere changes in procedures. To illustrate, the delays associated with the use of reproduction cost evidence have generated their own economic costs during a period of rapid economic change. Assuming the procedural time and cost to be the point of objection, these economic costs may be avoided or mitigated by recognition and use of other forms of evidence of the economic change, such as index numbers of price level and value of the dollar change.

THE choice of method or formula of rate regulation, *as such*, should not operate to the disadvantage of a particular social group, whether consumers or investors. A method should not be selected because the results favor

⁴ These administrative difficulties and disadvantages inherent in the determination of reproduction cost for large, complex properties have been alleged to be so serious that any process of rate regulation based upon the method will break down. Bauer, John and Gold, Nathaniel, *Public Utility Valuation for Purposes of Rate Control*, Macmillan, 1934; Brief of Federal Power Commission, *amicus curiae*, Railroad Commission v. Pacific Gas & E. Co., in the Supreme Court of the United States, October term, 1937-1936 term, pages 17-39, 302 US 388, 21 PUR NS 480. Brief for the United States, *amicus curiae*, Driscoll v. Edison Light & P. Co., in the Supreme Court of the United States, October term, 1938, pages 29-56, 307 US 104, 28 PUR NS 65.

WILL THE NEW JERSEY PLAN WORK?



Equity v. Favoritism in Rate Procedure

“THE choice of method or formula of rate regulation, AS SUCH, should not operate to the disadvantage of a particular social group, whether consumers or investors. A method should not be selected because the results favor consumers as against investors or vice versa. Whatever the chosen method or formula of rate regulation, it influences the distribution of national income and will affect the risks of investment, the returns required by investors, and the cost of capital.”

consumers as against investors or vice versa. Whatever the chosen method or formula of rate regulation, it influences the distribution of national income and will affect the risks of investment, the returns required by investors, and the cost of capital. The regulatory procedures must be such as will recognize and reflect the facts of economic change, or they will have no appropriate and reasonable relation to regulatory ends which are in the whole public interest.

Utility regulation, the making of business decisions, and the determination of values cannot be reduced to an automatic process by which the correct decision can be made by reference to books of accounts. A sufficient warning may be found in a well-known passage from the concurring opinion of Mr. Justice Jackson in the Hope Case:

To make a fetish of mere accounting

is to shield from examination the deeper causes, forces, movements, and conditions which should govern rates. . . . If one cannot rely on accountancy accurately to disclose past or current conditions of a business, the fallacy of using it as a sole guide to future price policy ought to be apparent. However, our quest for certitude is so ardent that we pay an irrational reverence to a technique which uses symbols of certainty, even though experience again and again warns us that they are delusive.⁶

Mr. Justice Clark repeated the warning in delivering the opinion of the Supreme Court in *United States v. Toronto, H. & B. Nav. Co.*:

Perhaps no warning has been more repeated than that the determination of value cannot be reduced to inexorable rules . . . Original cost is well termed the “false standard of the past”

⁶ *Federal Power Commission v. Hope Nat. Gas Co.* (1944), 320 US 591, 51 PUR NS 193, 224, note 40.

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where, as here, present market value in no way reflects that cost.⁶

WHEN methodology and administrative convenience become ends in themselves, the long-term public interests cease to be served. The search for exactitude becomes an end in itself if form is substituted for substance and if the results provided by administrative formula are neither subject to change with changing conditions nor effectively subject to dispute by the interested parties. When nothing short of such an illusory certitude will suffice, regulation has lost its capacity to face the economic realities and of deciding the issues on their merits. The businessman has found it possible to exercise judgment in calculating economic adjustments. The problem of making such adjustments for economic changes actually is one which every person must face in all the economic choices he makes.

It is the end result which is subject to the appropriate criteria of reasonableness and not merely the mechanics of reaching the determination. It is the annual return, and not either the rate base or the rate of return considered independently of each other, which is subject to the appropriate tests of reasonableness.⁷ The end result of a regulatory determination must meet the test of fairness and practical effectiveness (in terms of dollars of return) under prevailing economic conditions. If the rate base were to be arbitrarily frozen, so as to exclude adjustment for change in the size of the dollar as the unit of measurement, the same "causes,

forces, movements, and conditions," which otherwise would influence the rate base, are necessarily to be considered in determining the fair rate of return.

Fair Investment Value

CHANGES in the price level and other economic changes must be recognized if the regulatory process is to provide fair and reasonable returns to investors in utility enterprises. The prices of risk capital are not controlled by governmental authority. Commitments of savings to public utilities and to competitive enterprises are not yet coerced. Investors make their choices in the light of the available alternatives; the prices of other goods and services, and the returns being earned elsewhere, establish these investment alternatives. The returns to utility enterprises which are economically adequate to attract equity capital on reasonable terms can be determined only in the light of other prices and values and the returns elsewhere available to private enterprises.

The economic measure of a fair and reasonable return on past investment in a regulated enterprise is thus the returns alternatively available at the time on past investments in other business undertakings which are attended by corresponding risks and uncertainties. Otherwise the credit of public utilities is affected adversely, and the past investment treated unfairly.

Such a return has a fair investment value. The investment value of any income-producing property is the product of (a) the prospective annual return on capital, and (b) the rate at which the prospective return is capitalized in an open and informed securi-

⁶— US —, 70 S Ct 217, 221 (decided December 12, 1949).

⁷ Report on the plan, page 27.
APR. 13, 1950

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ties market. Although the regulatory commission can fix only the return, but not value, the final "end product" is whatever may be the investment value. This is merely another way of saying that investment value depends upon the amount of return and that a given return subject to large risks is worth less than the same dollars of prospective return subject to small risks.

THE dictum of the Supreme Court in the Hope Case was that "the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks." Mr. Justice Douglas did not spell out the meaning of this dictum. It may be construed, however, in the light of an assumption that the general policy of the American society is to maintain private enterprise in which investors are free to choose among their available alternatives. Subject to this premise, *fair competitive value* is the only rational concept of the value which should exist as the end result of the regulatory process.⁸

⁸ It may be obvious that such a concept of "fair value," of what should be the "end product" of regulation, excludes any element of monopoly value arising out of possession of an exclusive privilege of supplying the utility service in the given market. Value in the sense of the compensation which would "make the owner whole" if his property were expropriated has never had any proper application for the purposes of rate regulation.

The measure of a fair return on past equity investment is thus the return being earned on such past equity investments in other businesses which are attended by corresponding risks.

A SHARP distinction should be made between the legal concept of "fair value" as a rate base and "fair value" or "fair investment value" as the end result.

To realize a fair investment value as an end result does not necessarily require that reproduction cost less depreciation be reflected in a fair value rate base. It does require that the allowed annual returns, the product of the rate base and rate of return in combination with each other, have a value which in the composite opinion of investors is equal to the value of prospective returns from alternative investment opportunities of corresponding risks.

To the extent, therefore, that change in the size of the investment dollar is not reflected in an original cost or prudent investment rate base, the adjustment may be made in the allowable rate of return. The form of such an adjustment for changed economic conditions is necessarily a rate of return which is high enough, in comparison with the current capitalization rate, that the capitalized value of the return is a "fair value."



“WHEN methodology and administrative convenience become ends in themselves, the long-term public interests cease to be served. The search for exactitude becomes an end in itself if form is substituted for substance and if the results provided by administrative formula are neither subject to change with changing conditions nor effectively subject to dispute by the interested parties.”

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Short-term Fluctuations

RECOGNITION of changed economic conditions, for the purposes of fair return determination, is appropriately limited to those changes which are relatively significant and permanent; no economic or administrative necessity exists for reflecting moderate or short-term economic changes in the "end result."

Administrative devices and formulae, however, may disregard mere fluctuations of prices and short-term economic changes. As a matter of fact, the conventional rate case method seldom functioned or was intended to function to provide such continuous earnings regulation, whether the accepted rate base evidence be based on current costs or past cost, and even when revenue, expense, and investment have substantially changed.

It may be apparent that unstable returns related to short-term fluctuations in prices would in fact be disadvantageous to consumers, investors, and the general public. The use of reproduction cost at "spot prices," if applied rigidly in a continuous regulation of earnings to reflect mere short-term fluctuations, would result in a rate base which would be constantly in a state of flux.

The New Jersey plan thus was not intended to function so as to reflect in charges to consumers all day-to-day price changes and mere fluctuations of revenues and expenses. Instead, the prudent investment rate base, the 3-year average, the stabilizing reserve, and the sliding-scale adjustment of rates were introduced into the plan in order to mitigate what would otherwise be the disturbing effects of short-term fluctuations.

Relatively Long-term Economic Changes

WHAT is true of mere fluctuations is not true, however, if the inflation is believed to be permanent; that is, where there is no expectation that prices will in fact return to their starting level, or if slow continued inflation is indicated as established public policy. There is no indication that the critics of reproduction cost have as yet given any consideration to the changes which have actually taken place since the abandonment of the gold standard and the wartime inflation of the money supply and the subsequent, and in large part probably permanent, decline in the economic size of the dollar as the unit of measurement.

This experienced change in the size of the dollar, the decline in exchange value or purchasing power, must obviously be recognized in rate regulation and appropriate adjustments made if the investment values of returns to utility enterprises are to be fair. And particularly, it is necessary for the regulatory process to make adjustments for the decline in the value of money, if new capital is to be attracted to public utilities without unfair dilution of the values of the old investments. Supplies of new capital, especially equity capital, will not be forthcoming on reasonable terms unless investors believe that the long-term prospect of earnings is equal to those of unregulated enterprises having similar risks and hazards. Among competitive enterprises the prices of products naturally and freely adjust themselves, although perhaps with time lags, to the levels required to provide returns which are adequate in view of the cost of construction and the yields currently re-

WILL THE NEW JERSEY PLAN WORK?

quired by investors per dollar of capital required to provide the productive capacity.

These experienced economic changes are appropriately recognized in a "fair value" rate base. Thus, the majority of the Michigan commission in the recent Consumers Power Company Case (1950) 82 PUR NS 97, observed that the United States is "experiencing the most violent inflationary period of our national life" and that it is "incredible that fair value measured in 1949 dollars" would not be in excess of the original cost of property acquired and constructed over the past thirty-five years.

The Supreme Court, however, has made it clear that the Constitution "does not bind rate-making bodies to the service of any single formula or combination of formulas." A fair investment value may be provided by the most feasible administrative method.

Business Cycle Changes

It may be expected that business recession and depression will be experienced in the future, if not in the near future. Decline of business activity, reduced demands for goods and services, and reduced incomes have been a normal phase of the business cycle. The severity of business depression may be mitigated by intelligent control but the problem is not as yet eliminated.

If utilities do not now earn in excess of the average intended fair return, investors will not be compensated for the almost inevitable less than a fair return at other times. Utilities will not be able in the long run to earn the average intended fair return. Nothing will be available with which to fill in the business depression valleys.

It would in fact be good public policy to provide now against the necessity of increasing rates during times of depression by allowing utilities to earn in excess of the average intended fair return.

The stabilizing reserve was established by the plan⁹ in view of the necessary assumption that business cycle fluctuations will continue:

In the midst of a severe business depression it is unlikely that utility rates can be reduced (justly), but means ought to be devised to avoid raising rates. It is for this reason that the stabilizing reserve is an essential and protective feature of the plan.

The reserve ought to be sufficient in amount to counteract the effects of any adverse business conditions which reasonably may be anticipated.¹⁰

The economic disadvantages of any past cost method result from its rigidities. The now effective provisions of the plan make only a partial contribution to the problem of relatively rigid utility rates—underpricing of utility services in periods of business prosperity and the overpricing in periods of reduced business activity and lower general prices. If the reserve functions to accomplish its intended purpose, rate increases may be avoided in a business depression, but no basis is provided for rate reductions in step with any general rise in the purchasing power of money. In a period of business prosperity, earnings in excess of

⁹ The function is to serve as a reservoir which, under specified conditions, receives earnings in excess of the basic return and from which there may be withdrawn amounts required to make up deficiencies below the basic return. The "basic return" corresponds to the "average intended fair return" in rate regulation generally.

¹⁰ Report on the plan, page 31.

PUBLIC UTILITIES FORTNIGHTLY

the average intended fair return may go into the stabilizing reserve and become available to fill in the business depression valleys. The difficulty, however, is that the stabilizing reserve may be substantially depleted, even when business is prosperous, before the sliding-scale arrangement would operate to increase the price of service. The reserve thus might fail to accomplish its intended purpose.

ON the other hand, the use of cost of reproduction evidence in the conventional rate case procedure has not permitted a prompt adjustment to changed values. Increased economic costs result from the lags of the regulatory process, both in periods of rising and in periods of falling prices.

Rate adjustments were not made promptly to reflect reduced costs of production in the period following 1930, when the business recession became an economic crisis of major proportions. The rate-making procedure required by established legal rules was complex and dilatory. Adjustments of utility rates and earnings were slow and uncertain in relation to the decline in purchasing power available to consumers and in relation to the earnings alternatively available to investors in unregulated enterprises. The relatively rigid prices of utility services, in relation to the substantial declines in the prices of other goods and services, undoubtedly made their contribution,

even if only to a minor extent, to the severity and length of the depression.¹¹

In periods of rising prices and general business prosperity, adjustments of rates upward often are delayed because of the difficulties of the regulatory process. The process of adjustment sometimes takes so long that it runs beyond the "prosperity stage" of the business cycle. As another alternative, utilities applying for rate increases may follow the route which promises the most expeditious administrative action, without regard to the return which is actually fair and reasonable. When costs are rising rapidly, the income position of a utility enterprise may be better if it receives "half a loaf" in six months than if it waits eighteen months for what was estimated at the beginning to be a "whole loaf."

Utility services thus become relatively underpriced during periods of rising general prices and overpriced during periods of falling general prices.

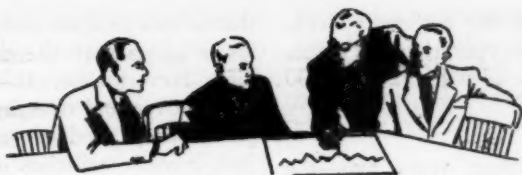
¹¹ Nationally known economists testified before the Wisconsin commission in 1932 in regard to the economic maladjustments which result in a general business depression from the relatively rigid prices of utility services. Parallel maladjustments result, in reversed form, from abnormal price relationships in a period of general business prosperity.

See *Re Wisconsin Teleph. Co.* (2-U-35), PUR1932D 173, testimony of Professor Frederick C. Mills, May 13, 1932, pages 1083-1126; testimony of Professor Frank A. Fetter, May 16, 1932, pages 1156-1180; Professor Jacob Viner, May 16, 1932, pages 1195-1207; testimony of Professor William A. Paton, May 17, 1932, pages 1313-1338; Professor James C. Bonbright, May 18, 1932, pages 1447-1491, 1600-1646.

(To be concluded in the next issue.)

¶ "THERE is a point in taxation beyond which government cannot go without draining away the lifeblood of America's economy."

—HERBERT R. O'CONOR,
U. S. Senator from Maryland.



Nationalization, a Partly Accomplished Fact

Those who are concerned with the continuation of free enterprise in the electric light and power business do not believe that the American people want a socialistic state. However, there is a very grave danger that they are having Socialism envelop them without their realizing it.

By ELMER L. LINDSETH*

PRESIDENT, EDISON ELECTRIC INSTITUTE

THE most critical and urgent domestic problem America faces is the trend toward the socialistic state, with its planning and regulation of all phases of living.

An increasing number of our fellow citizens have become alarmed at the ever-widening intervention and authority assumed by the government in the affairs of individual citizens and at the drift in America toward the socialistic state.

This trend has become a menacing cloud which is casting an increasingly broader and blacker shadow over the country. We have seen the strong frontal attack presently being made by the exponents of socialization of the electric light and power industry. Alarming successes already have been scored. To cite a few examples:

In 1933 Federal and municipal elec-

tric light and power systems were serving 2,200,000 customers, or 9 per cent of the nation's total.

Today they are serving 7,500,000 customers, or 19 per cent of the total, with power costs heavily subsidized by the taxpayer, and preference clauses discriminating against electric customers who pay their own way.

Up to 1930, the Federal government had built only 17 small hydroelectric plants, each of these as an adjunct to an irrigation dam. Total installed capacity was 226,000 kilowatts.

One of the Hoover Commission reports says that as of June 30, 1947, the Federal government had plants with a capacity of approximately 5,000,000 kilowatts. It had additional plants under construction with a capacity of 8,500,000 kilowatts. Construction authorized by Congress contemplates almost another 7,000,000 kilowatts.

*For additional personal notes, see "Pages with the Editors."

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Thus in 1960 the Federal government will have in operation 172 plants with a capacity of about 20,000,000 kilowatts.

IN 1932—eighteen years ago—the electric companies served 94 per cent of the electric utility business of the country.

Today, owing to the invasion of this field by the Federal government, the electric companies serve about 85 per cent of the business.

The Federal government, as we all know, has usurped this business through competition based on discriminatory taxation and other financial devices.

The electric companies are gravely concerned by these maneuvers. We believe all citizens should be.

It is plainly contrary to sound principles of economics and democratic government that taxes collected from our self-supporting electric companies be used to help support competing, government-owned electric systems which are largely tax-exempt, and which, in addition, are subsidized out of taxes collected from the public.

It likewise is plain that the American system of freedom of enterprise cannot survive indefinitely under a régime which divides a major basic industry into two parts: One part that is taxed, and the other part that is tax subsidized. The Federal government today is taking as taxes over 11 per cent of the total revenues which the electric companies receive from the sale of electricity. These are Federal taxes only. But the government power systems pay no Federal taxes. This differential of 11 per cent shows there is no magic in the government's claim

that it can produce and sell power at lower prices than the electric companies. Nevertheless, this claim—repeated over and over by government power propagandists—results in unjust, adverse criticism of the companies' rates.

There is no denying that the propaganda, claiming the government projects supply power cheaper, is harmful to the companies. It is harmful even though the government actually does not supply power cheaper, with all tax exemptions, tax subsidies, and accounting practices measured. The fact is that government power rates are subsidized by the taxpayers. Aside from paying no Federal taxes, and generally little or no local taxes, the government power projects pay no interest whatever in some cases, and only partial interest in other cases. In addition, the allocations of total cost of multiple-purpose projects charged to power production are open to question.

WE in the electric light and power business do not believe that the American people want a socialistic state. However, there is a very grave danger that they are having Socialism envelop them without their realizing it. Federal power agencies are now becoming very active in New England. A political conference designed, among other things, to promise New England great benefits from Federal hydroelectric power, was scheduled for Boston in the fall of 1949, but has been postponed indefinitely.

C. Girard Davidson, Assistant Secretary of the Interior, said recently: "We in the Interior Department believe the waters of New England, which are now largely unharnessed

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and flow unused into the sea, should be put to work for the benefit of the people of New England . . ." Ignoring the tremendous expansion program of the electric utility industry, Davidson then went on to warn of forthcoming power shortages in the United States. This, of course, is a familiar "scare" tactic of government power proponents.

However, Assistant Secretary Davidson's assertions have been contradicted flatly by experts in the field living in New England. Private expansion already has given New England ample power capacity, with plenty of reserve. During October these experts told a Massachusetts legislative committee, which has been investigating the facts, that virtually all the hydroelectric power available on an economically sound basis in Massachusetts already has been developed. A representative of the Army Engineers said that only an "insignificant" amount of hydroelectric power could be developed in Massachusetts in addition to what already is being produced. The chief engineer of the state planning board said he did not know of any further rivers or streams in Massachusetts which could be developed profitably. The wildest estimate of the hydro potential in New England has come from the Federal Power Commission, which

declared in a memorandum to Congress that 3,000,000 kilowatts of hydro were available in the area. The New England Council has estimated at 400,000 kilowatts the total it is feasible to develop.

THE same trends which are taking place in the utility industry are present in many other industries and businesses. The Federal government is directly competing with its own citizens in many cases.

I have emphasized the extent of Federal intervention in the electric power field only because I am more familiar with it. It must not be forgotten, however, how extensively the government has wedged its way into many functions hitherto performed largely by private enterprise. The Hoover report pointed out that the Federal government owns, or is financially interested in, about 100 important business enterprises. It is by far the nation's largest lending agency, the biggest writer of life insurance policies, the largest landlord, and the greatest purchaser of agricultural commodities. In addition, the government is an extremely important factor in medical care, synthetic rubber, hotels, forestry, chemicals, retail stores, shipbuilding, and petroleum production—to name only a few categories.



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This degree of socialization is an accomplished fact. But we hope that by exposing the facts to light, we can stem, and then reverse, this tide. We have found some reason for hope. Recent research by Central Surveys showed that three of every five persons questioned among opinion-forming groups, who thought the trend toward greater government influence was pronounced, regarded this trend as harmful and believed it would affect them adversely.

This growing awareness of the problem is encouraging. But there is little encouragement in the fact that relatively few of the persons questioned had done anything to oppose the trend. Only one in seven could recall any specific activities in which he had engaged to stem the tide. But two in every five did say "they want to work against this trend, *but don't know exactly what to do.*" *Two in every five don't know what they can do!* So there is reason for hope that effective and sensible opposition can be marshaled against undesirable trends. Yet large numbers of people—and remember these are opinion-forming people—still need not only to be convinced of the existence of the problem and of the need to do something about it—but also to be told just what they can do.

JUST what *can* one man do to help stem this tide of federalization of the national life? Not necessarily a person in our industry. Just anyone, anywhere. A teacher, a housewife, a foreman, a farmer, a businessman, or a doctor. I should like to review a list of specific ideas—a "do" list. The ideas are not original with me; they reflect the experience of many people who

have been earnestly concerned about these threats to liberty, and who have been doing something about them.

The people who are pushing the ideas which will lead us inevitably to a socialistic state have a fanatical fervor. They believe theirs is the only true economic and political gospel, and they are fanatically striving to force it on the unbelievers. Many of these evangelists are in the government. There they are free to spend their full time working on their schemes. By contrast, most of us businessmen devote but a pitifully small share of our time to combating their propaganda. To do an effective job, we must match the fervor and the endeavor of the nationalizers. We must have the will to win. As L. R. Boulware, vice president of General Electric, has said, "We must be born again."

Once we are dedicated to work for freedom, and have faith that our efforts can be productive, once we have resolved that we *can* help and *will* help, what specific steps can we take?

First, we have got to get informed. We must educate ourselves on the ideals, economics, and advantages of the American system.

In plain English, we must know what we're talking about.

Unfortunately, this isn't quite as simple as it sounds.

Too few of us businessmen know—much less are able to express clearly to others—the simple fundamentals of our free American economic and political system, its virtues, and its values.

Let's ask ourselves, can we simply and effectively explain: (1) The function of savings and investment in providing the tools which multiply the productivity of labor?



Results of Public Opinion Survey

"A RECENT survey by Opinion Research disclosed that 83 per cent of employees who were uninformed about the benefits of the American economic system, were wholly or partially in favor of government domination of business and the national life. Only 17 per cent believed in anything like what we call free enterprise. But among well-informed employees, 75 per cent upheld free enterprise. Only 25 per cent could be classed as partial or extreme collectivists."

(2) The benefits of incentives and competition, as contrasted with the repressive effects of government planning and bureaucratic control?

(3) How *only* under the capitalistic system real wages will be increased?

PARADOXICALLY, the nationalizers often know a great deal more about the American economic system than the exponents and advocates of free enterprise. It isn't easy to suggest how to broaden your knowledge, but a few obvious methods can be pointed out. These include constant study of all phases of the subject, firsthand observation of the effects socialistic measures have had on various industries already, and discussion with other persons who are affected and concerned. I might also add that as in all education, the process of learning this subject must be a continuous one. There

can never be an end to it and you can never know too much.

A well-rounded study of the American system leads to the conclusion which is the second of the suggestions for an individual who wants to help in this struggle. It is this:

We must recognize that many proposals for reforming the American economy stem from real human problems.

Sumner Slichter, of the Harvard Graduate School, in an analysis of the lack of confidence in business which is expressed in many quarters, said: "It is true that many proposals for reforming the economy are ill considered and impracticable. This does not mean, however, that the proposals do not spring from real problems . . . Certainly business cannot be expected to have influence in the future unless it shows awareness of the problems con-

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fronting employees, farmers, and consumers, and unless it is willing to offer constructive proposals for dealing with these problems."

As a corollary to Professor Slichter's remarks, we should recognize that government always tends to fill any void left by private enterprise. If there is a strong demand for something, and business fails to meet the demand, government will step in.

BUSINESS has suffered because it has not maintained the full confidence of the public. One way to gain more confidence is to refrain from an ostrich-like attitude toward the legitimate needs of the people for security, opportunity, and progress. Recognition that problems exist must be followed by action, which leads to my third point: *We must work for right things, not merely against wrong things.* There is a political maxim, "You can't beat somebody with nobody." Neither can we beat something with nothing. We are not going to blunt the edge of collectivism by merely railing against it. Nor are we going to accomplish much by trying to stand pat, trying to defend our present system as perfect. As always, a good offense is the best defense.

Just what are we businessmen working for? Isn't it an expanding economy of freedom, opportunity, and competition? Isn't it an ever-rising standard of living achieved through ever increasing the tools and skills of productivity? Isn't it the security and independence that come with freedom, as contrasted with the slavery of collectivism, in business and industry, in the professions, or in any other walk of life? We can be for change. We can concede that the American economic sys-

tem should be and will be improved. We can be for every good thing already here, and yet to come. And we can honestly promise to preserve the good we have, and promise to make it even better. James H. McGraw, Jr., president of McGraw-Hill, put the problem this way: "The public *must learn* that Socialism is reactionary, that it is the oldest fraud in history, that only freedom is new and progressive. I believe we can win public support for a positive program. I believe that such a program is in the public interest. I believe that we cannot stand still and survive as free industry . . ."

HAVING determined what we stand for and how we are going to proceed, we must get our story across. The fourth point, therefore, is this: *We must spread the story of the superiority of the American system, in terms everyone can understand and accept.*

Each of us must do this, out of his own experience, in his own way, in terms of how it affects the lives of his listeners. It is a compelling story we have to tell—a story we can be proud of. Someone has called it "the greatest untold story." The facts of this story we have all around us. What each of us has to do is to weave these facts into a simple, straightforward, cohesive message.

One point is important. Communication in this field is abstract, difficult, and largely undeveloped.

But let's tell this story to our employees, to our customers, our neighbors, our friends. Let's tell it to all who will listen. Let's reconvert those who have been proselyted by our enemies.

Numerous surveys have demon-

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strated the value of telling employees of business and industry the story of how the American business system benefits the nation. No other field is as fertile and productive. Many are sowing the good seed in this field. Everyone should. Employees of business and industry want the truth. Once they have it, they can be extremely potent salesmen of free enterprise.

A recent survey by Opinion Research disclosed that 83 per cent of employees who were uninformed about the benefits of the American economic system, were wholly or partially in favor of government domination of business and the national life. Only 17 per cent believed in anything like what we call free enterprise. But among well-informed employees, 75 per cent upheld free enterprise. Only 25 per cent could be classed as partial or extreme collectivists.

THE media for getting "the word" to employees are familiar—employee publications, meetings, letters, foreman meetings, employee education programs, and various other avenues of communication. But the techniques of using these avenues are not easy, or well developed. This is not a criticism. Rather it is a challenge to do a job as yet undone. Other opportunities exist in our daily personal contacts

with people who are not yet as steamed up over the situation as they ought to be. Especially, let's tell it to the youth of the country. Then there are numerous organizations, from churches to luncheon clubs, where discussion of current problems is encouraged. Let's avail ourselves of every opportunity to tell them the story. It may not be easy to bring yourself to do this. And many of your associates may feel unsure about taking on the task. But urge them to do it. They soon will find they enjoy telling people the story, and the listeners are grateful for the information they receive.

Telling the story is one kind of action we can take. There is another which can be summed up in my fifth suggestion: *We must take a more alert personal interest in government, and implement our interest by personal action.* It isn't enough to learn and spread the story of sound economics. To put an informed public opinion to work, we must impress our opinions on government at all levels, from the school board to the White House. It is usually not possible to participate in government to the extent of running for office, but we can appear before legislative committees, and accept appointment to administrative jobs.

Before Congress or any other legislative body votes on any measure affect-



“ONE of the most difficult aspects of this problem of deserving public confidence is the fact that some businessmen are guilty of the same derelictions they criticize in others. Some of them also have the ‘gimmies.’ The moral is obvious. Businessmen must stop acquiescing in government intervention which doesn't seem to directly concern them. They will have to quit taking a handout from Uncle Sam with one hand, while they take a POKE AT BUREAUCRATS with the other.”

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ing our American economic system, we can act singly and through organizations to let our representatives know how we think and where we stand on it.

Unfortunately, the phrase "write your Congressman" has been bandied about so much that too few people with our economic leanings take the trouble to write their Congressmen. But it's still a sound idea—and an important one. Congressmen report that the bulk of their mail comprises letters asking for this, or protesting against that. Not many "thank you" notes come in. When a Congressman votes the way we think he ought to, let him know we appreciate it.

THE No. 1 control of the philosophy of something-for-nothing is the control of governmental expenditures. So, if there is one kind of legislation to which we all must pay the closest attention, it is that which makes possible the needless spending by the government. American businessmen, who have demonstrated to the world that salesmanship is one of our higher arts, can find no better use for their talents than in selling the idea of economy and reduction of spending by government.

My sixth and final point overlays all the other suggestions and is partly dependent on them. *We must truly deserve the confidence of the people.* We are all aware of the decline in prestige of American business leaders. Gwilym A. Price, president of the Westinghouse Electric Corporation, has said that "American business is now operating in a climate so hostile to enterprise that it is unable to obtain its capital requirements from the public." If we are to change this situation it will require a major effort on the part of all

of us. Of course there is no substitute for performance. Before we can expect that the people at large will have full faith in business, we must be sure that we are running our own businesses so well, with proper regard for the public interest, that we deserve such confidence. We also owe it to ourselves as businessmen to let the public know the value of our performance. This calls for alert and expert public relations. It means being a good neighbor—and letting the public know we are one. To change metaphors, you can't polish a rotten apple, but you can take the wrapping off a sound one.

One of the most difficult aspects of this problem of deserving public confidence is the fact that some businessmen are guilty of the same derelictions they criticize in others. Some of them also have the "gimmies." The moral is obvious. Businessmen must stop acquiescing in government intervention which doesn't seem to directly concern them. They will have to quit taking a handout from Uncle Sam with one hand, while they take a *poke at bureaucrats* with the other.

These then are the essentials of the program which—as I've said—have been developed from the experience and suggestions of many.

1st, we have to get informed. *We must educate ourselves on the economics of the American system.*

2nd, we must recognize that many proposals for reforming the American economy stem from real problems.

3rd, we must be for right things, not merely against wrong things.

4th, we must spread the story of the American system, in terms everyone can understand and accept.

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5th, we must take a more alert personal interest in government, and implement our interest by personal action.

And 6th, we must truly deserve the confidence of the people.

You, no doubt, have further ideas. I would welcome them, and I hope you will write me any ideas I can add. I want to do the best job I can in carrying this story to others.

One thing above all others is vital. Any effort to preserve "Our Way," or "Free Enterprise," or "Freedom," is of no importance if its objective is only to save "our" business, or "our" jobs, from nationalization, whether "our" business is railroads, or steel, or medicine, or electric power. Saving a business—any business—from nationalization is important only because saving it helps to preserve freedom for every American citizen. If we plead what seems to be our special interests, we will surely fail. This is true of the railroads, or doctors, or steelmakers, or bankers, or insurance men, or any other group whose particular field of business is being invaded by government and is being nationalized by stages. We will get support from the man in the street only when we show him that after all it is he who is being hurt and unfairly treated. Not until we show him that it is his savings and his children's future savings that are today being taxed away from him will he be on "our" side—which is in reality "his" side—in this fight for a free America.

A quarter-century ago the late Carl D. Thompson, organizer and leader of the Public Ownership League of Amer-

ica, issued this manifesto: "The movement for public super power becomes the most vital phase of the public ownership movement. The control of electric power . . . will obviously carry with it the control of the industries of the nation, the control of transportation, of mining, and agriculture . . . It will also dominate and determine very largely the domestic life of the people . . . Electric power is the key to the coming civilization . . ."

ALL who believe in preserving the American Way of Life and Freedom of Enterprise cannot let this key to freedom be wrested from them.

That would be bad, not because it is bad for those in the electric business, but because it is bad for the people who place dependence on our business, whether they be consumers, workers, or investors. It is not "our" ox that is being gored—it is theirs. And it is up to us to make them see it. The electric light and power business—large though it is—is small in the world scheme of things. But we in this business know we have a far greater obligation than just to save our business from socialization. It is our obligation to devote the best we have in us to help save our customers, our employees, our communities, and our nation from the menace of expanding socialization.

And it will only be when we as individuals get the aid of a host of other individuals that we can win this struggle which seems to be our particular struggle but which in reality is as importantly theirs.



The March of the Gas Transmission Lines

An account of the postwar expansion program of the natural gas industry. Comparative cost analysis of natural gas, coal, and fuel oil enters into this discussion of the major rôle the pipeline must play in the nation's fuel economy of the future.

By LOUIS J. ZITNIK*

DURING the 5-year period 1948-1952 inclusive, it is estimated that the natural gas industry will spend \$1,750,000,000 on new transmission facilities. The total post-war expansion program of this industry will more than double interstate transportation of natural gas.

As of January 1, 1946, the thirteen major natural gas transporters had an aggregate daily delivery capacity of 4,340,000 thousand cubic feet of gas. In the twenty-seven months prior to April 1, 1948, these thirteen systems, together with five new pipe-line companies, filed applications with the Federal Power Commission for certificates to construct and operate transmission facilities which would have a delivery capacity of 6,223,500 thousand cubic

feet. This increase in capacity included the Big and Little Inch pipe-line system with a capacity of 433,000 thousand cubic feet daily which was sold by the government to Texas Eastern Transmission Company in 1947. The other four new pipe-line companies are Transcontinental Gas Pipe Line Corporation, Trunkline Gas Supply Company, Michigan-Wisconsin Pipe Line Company, and Atlantic Gulf Gas Company. Applications approved in the fiscal year ending June 30, 1949, will increase transmission capacity by almost 2 billion cubic feet. These included several applications not pending on April 1, 1948.

WHILE the over-all expansion program includes new capacity in virtually every section of the country, certain developments are of special in-

*For personal note, see "Pages with the Editors."

THE MARCH OF THE GAS TRANSMISSION LINES

terest. For example, Tennessee Gas Transmission pioneered in the transmission of natural gas from Texas and Louisiana in 1944. Tennessee is now expanding the system to Buffalo, New York, and has requested permission to extend the system into New England. Texas Eastern initiated the first natural gas deliveries to the New York city area in August, 1949. Transcontinental is building a 1,840-mile pipeline from Texas through the southeastern states to New York, the longest and costliest natural gas line in the world. A natural gas line from Texas to California was completed in 1947, which brought Texas natural gas to California for the first time. The Michigan-Wisconsin pipe-line project brings natural gas to various markets in Wisconsin for the first time.

Considering the magnitude of this expansion, certain questions come to mind: (1) Are sufficient gas reserves available to supply the requirements of these new transmission lines? (2) Is there duplication of needed capacity? (3) Does the longer-term demand warrant this expansion or is it only temporary? (4) Will natural gas pipeline construction at the present price level require increased costs of natural gas for local distributing utilities?

The study of natural gas reserves is a separate field in itself, but suffice it to say that while the ratio of 1948 oil and condensate reserves to production was only 12.1 to 1, the ratio of natural gas reserves to production was 31.3 to 1. Furthermore, it should be pointed out that the Federal Power Commission must be convinced that ample gas reserves are available for approximately twenty years' requirements before a certificate is granted for construction.

THE FPC also prevents needless duplication of capacity by insisting that an applicant prove that there is an effective demand for the natural gas to be transported. In most instances, the applicant can prove that distributing utilities have contracted to purchase 90 to 100 per cent of all gas to be transported. In fact, many distributing utilities, particularly in the Appalachian area, have intervened in FPC hearings asking that the transporting concerns be forced to give their respective utilities more natural gas rather than add new customers.

The current shortage of natural gas has stemmed from an increased demand by all types of consumers. Mounting demands for residential space heating have presented a difficult problem in the Appalachian and mid-west areas during the winter season and have necessitated temporary restrictions upon additional installations of space-heating equipment. A major portion of the deliveries to industrial customers are on an "interruptible basis" and such deliveries are suspended during periods of peak demand. Table II, page 487, shows the growth in net marketed production in the past eleven years. The reasons for the growth and the current unprecedented demand for natural gas lie in the competitive advantages which natural gas has over other fuels.

Natural gas is favored as a fuel for several reasons, including cleanliness, convenience, and ease with which it may be used (no storage problem for consumer), uniformity of operation, and price. The latter is undoubtedly a most important consideration where natural gas may be readily substituted for other fuels such as coal and fuel oil.



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IT is not an easy matter, however, to compute the average price of natural gas for comparative purposes because natural gas deliveries and rates of distributing utilities vary to commercial, residential, and industrial customers within a single system and also vary by distributing utilities, depending upon proximity to source of supply and many other intricate considerations. In 1948, for example, deliveries to industrial consumers accounted for 57 per cent of total natural gas sales, deliveries to residential consumers 29 per cent, and 10 per cent to commercial customers. Revenues of natural gas utilities by customers were 53 per cent from residential, 32 per cent from industrial, and 13 per cent commercial.

While it is impossible to find a meaningful price average for natural gas which can be compared with price averages of competing fuels as an exact guide, it is possible to generalize as to the trend of these prices and their differences. In Table I, shown below, cost (year end) of coal and oil was computed on a weighted average basis, as related to the volume of gas sold in

each of the several districts served by Panhandle Eastern Pipe Line. Panhandle sells natural gas at wholesale to utilities in Missouri, Illinois, Indiana, Ohio, and Michigan. It should be noted that this territory is in close proximity to some of the nation's greatest coal deposits.

In Table I, it will be noted that the wholesale cost of coal increased 125 per cent from year end 1938 to year end 1948, fuel oil increased 116 per cent, while the cost of natural gas decreased by 32 per cent. At year end 1948, the per heat unit cost of coal was 90.5 per cent higher than natural gas, while fuel oil costs were 187 per cent higher. The index of wholesale prices of fuel and electricity of the Bureau of Labor Statistics shows a similar pattern, though not as extreme, but this index combines manufactured, mixed, and natural gas.

WHAT has caused the differences in the cost of the fuels over the last decade and will the present cost relationships between the fuels be continued? Rising labor costs have been the major factor in the increased cost of coal. In view of the high labor cost in the coal industry and the strength of the labor unions, it is logical to expect no important reductions in the price of coal over the longer term. In fact, higher prices would appear to be more logical.

The factors causing the increase in the cost of crude oil are complex and the permanency of the present quotations is indeed a moot point. It will be noted that while fuel oil prices declined and then firmed since year end 1948, no major downward price adjustments were in evidence for average and



TABLE I
COMPARATIVE COST—NATURAL GAS, COAL,
AND FUEL OIL†
In Cents Per Million Heat Units

Year	Coal	Oil	Gas
1938	17.0	26.1	28.7
1939	17.1	22.4	29.0
1940	18.0	24.6	29.0
1941	19.5	27.8	29.0
1942	20.0	29.3	27.7
1943	22.0	29.5	19.6
1944	22.3	30.6	19.5
1945	23.3	32.0	19.3
1946	27.0	36.6	19.5
1947	33.8	65.0	19.6
1948	38.25	56.33	19.61

†Courtesy Panhandle Eastern Pipe Line. Statistics cover wholesale fuel costs in its territory.

THE MARCH OF THE GAS TRANSMISSION LINES

higher grades of crude oil. It would appear that the trend of deeper drilling for new production and the higher drilling costs per foot will preclude any return to prewar crude oil prices. New techniques will also lessen the quantity of fuel oil produced from a barrel of crude. On the demand side of the ledger, the trend of fuel oil consumption has been sharply upward despite higher prices. Thus, fuel oil prices should continue at or above present levels over the longer term.

Natural gas purchased for long-distance transmission constitutes only a minor portion of the transporter's total costs. The delivery cost of natural gas increases in close proportion to the length of the transmission line of any given size and any discussion of costs must necessarily consider this length factor. Data submitted to the Federal Power Commission proved that fixed charges for "depreciation, taxes, and return" account for 80 to 90 per cent of the total cost of transporting natural gas. Thus, it can readily be seen that an increase in the price of natural gas by as much as 100 per cent would only increase the cost of natural gas to distributing utilities by 10 to 20 per cent at the very most.

IT is true that natural gas transporters are not immune to the higher costs of construction but they have sought to reduce unit costs by the installation of larger diameter pipe. Natural gas can be transported about 35 per cent more economically through a 24-inch pipeline than through a 16-inch line. The cost advantage is more pronounced with larger diameter pipelines. Whereas 16-inch lines were considered as large a decade ago, 24-, 26-, and 30-

inch lines are now commonly used for new construction. Pacific Gas and Electric is currently constructing a 34-inch pipeline from Topack, Arizona, to the San Francisco bay area.

During the past few years natural gas transporters have almost universally adopted the practice of selling large volumes of gas to industrial customers at special low rates on an interruptible basis, which may be curtailed whenever total demands upon the system exceed the delivery capacity. This is the situation during the winter months when the domestic home-heating demand reaches its peak. Under these circumstances the transmission system is able to achieve an annual load factor of about 90 per cent contrasted with 60 to 70 per cent when all sales are on a firm (noninterruptible) basis. The larger load factor results in a lower per unit delivery cost.

The method of computing depreciation on plant investment of transporters is subject to FPC approval and it can be assumed that such charges are adequate. The natural gas transmission industry is now considered to be beyond the promotional stage and the



TABLE II
NATURAL GAS NET MARKETED
PRODUCTION†

Year	Trillion Cubic Feet
1938	1.64
1939	1.80
1940	1.95
1941	2.13
1942	2.33
1943	2.63
1944	2.86
1945	3.00
1946	3.13
1947	3.51
1948	Na

†Includes a small portion not sold through gas utilities. Source: U. S. Bureau of Mines.

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stability of revenues of the transporters is recognized by the security markets. The transporters are now able to issue first mortgage bonds on a 3 per cent interest basis as against materially higher charges in the prewar years.

FINALLY, it must be noted that rates paid by most consumers of natural gas are subject to utility regulation whereas prices for coal and oil are not. Had natural gas prices been able to seek their competitive level, transporting and distributing utilities would probably have been able to report earnings substantially higher, but in doing so would have acquired many of the char-

acteristics of an industrial concern in that they would be immediately affected by any minor fluctuation in the price of competing fuels.

Thus, it may be concluded that because of the cost economies in use of large diameter pipe and larger load factors, natural gas costs should continue to remain near present levels and to enjoy a wide cost advantage over competing fuels, assuming that the prices of coal and fuel oil do not decline materially. The need for each new system and its gas supply is closely appraised by the FPC and the current record expansion program is on an economically sound basis.

"IT is not too late to save the system which has made America the envy and the hope of mankind. But we must have less emotion, less propaganda, less wishful thinking, and a tougher scrutiny of promises in relation to results. . . .

"Shun propaganda and predigested ideas put forth by columnists and commentators in the press and on the air. We have our own iron curtain in America; the party line of Socialism and internationalism is ruthless in its coloring or editing of facts, intolerant in its treatment of dissenters.

"Believe with all your heart and soul in the American people and the capitalistic system. Capitalism, not Socialism or Communism, is the great dynamic of the modern world. Communism has never won a popularity contest in any country.

"If the people of Russia were given a chance to choose between the political promises of Stalin and the pictured promises of the Sears, Roebuck catalog, the vote for Capitalism would be 1,000 to 1.

"If we keep the capitalistic system alive and thriving in this country, if we keep out of wars, now popularly called crusades, and end our present program of subsidizing Socialism and overpopulation all over the world, the peoples of the world will finally demand Capitalism and overthrow their governments to get it

"But if, behind the iron curtain of our so-called foreign policy, we continue to build up Socialism at home, by taxation which confiscates savings and denies to industry the reserves necessary to keep our production plant in repair; if we continue to weaken business, the producer, in order to increase bureaucracy, the destroyer, then the last good hope of humanity is gone."

—BRUCE BARTON,
Author.



Stock Purchase Plans for Employees

PART II

The advantages and disadvantages of selling public utility shares to employees. Part II deals with actual example of stock purchase plans for employees.

By RICHARD A. ROSAN*

STANDARD OIL COMPANY OF NEW JERSEY inaugurated in 1926 a 3-year stock purchase plan. Employees of one year's standing or more authorized payroll deductions of a specified sum a week, not to exceed 10 per cent of their current wages. These were deposited in a fund held by trustees, and for every dollar put in by the employee the company added fifty cents.

The plan was to run for three years and employees were permitted to participate at any time during the first two years and a half of the period. As the account of each employee equaled the price of a share of common stock, as determined each six months on the basis of the average market quotations during the preceding three months, he was to be credited with this on the books of the trustees; dividends

on shares thus credited were to be deposited in his account. At the end of the 3-year period of the plan, each employee was to be issued a certificate for the number of shares his savings and other deposits and credits entitled him to, after which he was to enjoy the exclusive ownership of the security.

THE results of the 1926 and previous offerings by the Standard Oil Company of New Jersey at the end of 1926 were as follows:

Number of employees owning or paying for stock	19,135
Market value of stock owned or subscribed for by employees	\$36,288,000

Naturally, this plan was adopted and carried out prior to the enactment of the Securities Act of 1933 and other restrictive legislation which presents many obstacles in formulating a plan of this type. Likewise, it was not formulated with the provisions of § 165 of the Internal Revenue Code in mind.

*For personal note, see "Pages with the Editors."

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GE Employees' Savings and Stock Bonus Plan: This plan was adopted by the General Electric Company in October, 1948. The purpose of the plan was to:

(1) Afford employees a convenient means of purchasing U. S. Savings Bonds and encourage them to retain the bonds so purchased.

(2) Provide employees with a higher rate of return than is available from individual investment either in such bonds or in other high-grade securities.

(3) Give employees a financial interest in the company through ownership of its stock.

An employee participates in the plan by authorizing regular payroll deductions for the purchase of U. S. Savings Bonds and depositing with the company the bonds so purchased. The plan limits the amount of total deductions thereunder to \$30,000,000 a year.

The government bonds are held in custody for the account of the participant for a 5-year holding period and as promptly as practicable after the end of any 5-year holding period the company will deliver to the participant all bonds purchased under the plan during the applicable year. Concurrently, the company will deliver to the participant the stock bonus applicable thereto.

As of December 31st of each calendar year, the company will contingently credit each participant with a bonus in the company's common stock computed as follows:

(1) The bonus shall be in an amount equal to 15 per cent of the aggregate cost of bonds purchased by the participant under the plan for that year.

(2) The amount determined in (1) shall be divided by a stock price which represents the average market value per share of the common stock as of the end of each calendar month in that calendar year or portion thereof during which the plan is in effect.

(3) The stock bonus shall be in the number of full shares plus a fractional interest in the share equal to each one-hundredth of a share or a full multiple thereof produced by such calculation.

To carry out the purposes of the plan, a stock bonus trust is created under a trust agreement. The company transferred to the trust sufficient full shares of common stock to provide for the payment of the aggregate number of shares (including fractional interest in shares), contingently credited to participants for that year.

The trust shall maintain accounts showing the number of shares which have been credited to each participant for each year in which the plan is in effect. Dividends received by the trust upon its holdings of common stock and any other income will be credited annually to each participant on the basis of the number of shares held by the trust for his account at the end of the year.

The plan provides for the creation of a committee to administer the plan.

The plan is qualified under § 165 of the Internal Revenue Code. The shares contributed by the company under the plan have been treasury shares.

THRIFT Plan of Tennessee Gas Transmission Company: The thrift plan of Tennessee is available to

STOCK PURCHASE PLANS FOR EMPLOYEES

all employees who also participate in the retirement income plan.

Each participating employee may contribute an amount designated by him of not less than 2 per cent nor more than 8 per cent of his basic compensation. The company matches the employee's contribution. Each participant when applying for membership under the plan specifies the portion of his contribution which shall be invested by the trustee in class A or class B investments. Class A investments are United States Savings Bonds (Series F or Series G, or both); class B investments are such other securities as may from time to time be selected by the participant provided that such selection does not meet the disapproval of the administrative committee appointed under the plan. The plan provides that it shall be in effect until July 1, 1957, unless extended or sooner terminated by the company. In the event of the death of a participant, the amount of his credit balance is paid to his heirs. Upon termination of the plan or a participant's separation from the company, the employee's credit balance is payable to him.

The company has guaranteed that each participant will not receive less than his aggregate contributions to the plan.

The thrift plan is not qualified un-

der § 165 of the Internal Revenue Code.

A SUGGESTED *Savings Plan for a Utility Company—Rights and Duties of Eligible Employees:* To participate in the plan, each eligible employee would furnish the company and the trustee with a revocable election to participate in the plan and would authorize the company to deduct from his salary a fixed amount (for administrative convenience the amounts might be specified; i. e., \$2, \$5, \$10, etc.) each pay period which on an annual basis would not exceed 3 per cent of his average wage for the preceding year and deposit such amount with the trustee under the plan.

The election to participate in the plan would reserve the right to the employee:

(a) to cease making further contributions to the plan at any time upon thirty days' written notice to the company and trustee, but reserving the right to continue under the plan the trust funds already accumulated for the employee's account and to reinstate contributions at some later date;

(b) to cease participating in the plan upon thirty days' written notice to the company and trustee and to receive from the trustee the trust



Q "STANDARD OIL COMPANY OF NEW JERSEY inaugurated in 1926 a 3-year stock purchase plan. Employees of one year's standing or more authorized payroll deductions of a specified sum a week, not to exceed 10 per cent of their current wages. These were deposited in a fund held by trustees, and for every dollar put in by the employee the company added fifty cents."

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funds held by the trustee for the account of the employee; and

(c) commencing three years after the plan goes into operation, to elect, upon thirty days' notice and upon a showing that funds are needed for the purchase of a home or the payment of medical expenses or any unusual hardship, to withdraw the trust funds held for the employee but to continue to participate in the plan.

THE employee would cease to participate in the plan upon his separation from the company (other than temporary layoffs, illness, etc.) and the trustee would pay over to the employee the trust funds held for him (1) on the fifteenth day of January of the year following his retirement or (2) on the fifteenth day following his termination of service with the company for reasons other than retirement.

Upon the death of a participating employee, the trust funds held for his account would be paid over to the beneficiaries named in his election to participate in the plan or, in the absence of such designation, to his estate.

The employee would be allowed to execute and furnish the company and the trustee with supplemental elections to participate in the plan so as to increase or decrease the amount to be deducted from his salary and paid under the plan and/or to change his beneficiaries.

Employees would receive annually a report from the trustee which would show as of December 31st of the preceding year the trust funds held for the employee by the trustee under the plan. As pointed out below, it might be desirable to have the trustee issue a non-assignable trust certificate or receipt

evidencing the stock purchased for the employee's account during the preceding year.

Dividends received by the trustee upon the trust funds would at the election of the employee either be reinvested by the trustee or distributed to the employee. The income of the trust would be tax free.

THE *Functions of the Trustee under the Plan:* Upon receipt of an election to participate, to set up and maintain a separate subaccount trust for each participating employee.

Receive from the company after each pay period the amounts authorized to be withheld from their pay by each of the participating employees.

Apply monthly or quarterly the amounts held in the trust fund to the purchase of common stock of the company. The common stock would be purchased from the company at a price equal to (1) the average market price for the common stock for the week immediately preceding the date on which the trustee applies funds in its possession to the acquisition of stock less (2) a fixed percentage (such as 15 per cent) as may be determined in the trust agreement, rounded off to the nearest one-eighth or one-fourth of a point. In no case will the purchase price be less than par. Some stock purchase plans have fixed a minimum selling price for the stock based upon the approximate book value of the stock. This type of provision would not appear feasible for a continuing plan such as the one suggested.

Hold the stock for each participating employee and annually notify the employee of the number of shares of stock, the amount of dividends thereon,

STOCK PURCHASE PLANS FOR EMPLOYEES



The Desirability of Employee Stock Purchase Plans

"... the advisability of any type of stock purchase or stock saving plan involves a determination by the management of whether it, in good conscience, can offer to its employees the right to purchase the company's stock. There may be certain aspects of the company's business which make it inadvisable to undertake a plan of this nature. Having once decided, however, that a plan would be advantageous in improving employee relations, the management then has a wide area of choice to carry out its decision."

and the amount of unapplied contributions by the employee held by the trustee for the account of the employee. It may be desirable to provide that annually the trustee will issue to each participating employee a nonassignable trust certificate evidencing the stock purchased for his account by the trustee during the preceding calendar year. The trustee would also have to keep records indicating (1) aggregate contributions by the employee to the trust fund and (2) price at which each share of stock was purchased for the employee.

Distribute to the employee or reinvest the dividends received on the trust funds depending on the employee's election and make the distributions of the trust funds as provided in the plan.

FUNCTIONS of the Company: Upon the basis of the elections to participate under the plan filed with it, the company would deduct from the pay of participating employees the amounts

authorized and forward such funds to the trustee.

Monthly or quarterly, as provided in the plan and upon the requisition of the trustee, sell shares of its common stock to the trustee for the consideration computed in the manner provided in the plan. The company's contribution to the plan would be the amount of the difference between the average market price of the stock and the selling price to the trust. The common stock sold to the trustee could be either authorized but unissued shares of the company released from preemptive rights, if necessary, by action of the stockholders or treasury shares purchased by the company in the open market for resale to the trust. The board of directors of the company would determine from time to time whether additional capital through the sale of authorized but unissued shares should be raised or whether the capital requirements of the company were adequate and the stock to be delivered

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under the plan should be acquired in the open market.

IN order to minimize the effect of open market purchases upon the market value of the company's stock, these purchases should be spread over a period of time. For this reason, it is also suggested that the acquisition by the trustee of stock be not less often than quarterly so that the amount of stock purchased from the company would not at any one time aggregate a great number of shares.

The company would agree to pay the trustee from time to time as required such additional cash amounts as may be necessary so that when an employee withdraws from the plan, (a) the fair market value of the stock distributed to the employee, (b) the cash held in the trust fund for his account, and (c) such additional cash amount will equal the employee's aggregate contributions to the trust, not including dividends allowed to accumulate in the trust. By this means, the company will guarantee that an employee will never receive from the trust less than he shall have contributed.

The plan would provide for the dissemination of information concerning the company to the participating employees.

The company would assume the cost of the administration of the plan, including the fees of the trustee.

MISCELLANEOUS: The company would reserve the right to terminate the plan at any time. In this connection, it should be noted that in order to qualify under § 165 of the Internal Revenue Code the plan must be a permanent one. The termination of a plan

shortly after it is inaugurated would be evidence that it had not been intended to be a permanent plan.

The basic decision for management is whether it can in good conscience offer its employees an opportunity to invest a substantial portion of their savings in the common stock of the company. After careful consideration of this aspect of the suggested plan, the management may think it advisable that the plan be modified so the investments by the trust will be more diversified. For example, the employee might be given the election to participate under one of several alternatives: One alternative would provide that all of the funds of the employee would be invested in the company's common stock. In this manner he would accumulate a 15 per cent bonus on all of his savings. Another plan would provide that half of the savings should be invested and reinvested in United States Savings Bonds and the balance in the company's common stock. In this situation, there would be some diversity, the yield would average substantially less, and the employee would be receiving a bonus of 15 per cent on only half of the amount he saved. A third alternative might provide that the trustees would invest one-half of the funds in the securities of other utility companies and one-half of the funds in the securities of the company.

Many variations could be worked into the plan to obviate the dangers of "placing all your eggs in one basket." On the other hand, it should be recognized that the employee's stake in the proposed stock savings fund would be relatively small in comparison to his stake as an employee.

A plan such as that outlined above

STOCK PURCHASE PLANS FOR EMPLOYEES

is relatively novel and it is not certain whether the Treasury Department would qualify it under § 165. However, it appears to meet all of the technical requirements and there seems to be strong likelihood that it would be approved.

Conclusion

As indicated at the outset, the advisability of any type of stock purchase or stock saving plan involves a determination by the management of whether it, in good conscience, can offer to its employees the right to pur-

chase the company's stock. There may be certain aspects of the company's business which make it inadvisable to undertake a plan of this nature. Having once decided, however, that a plan would be advantageous in improving employee relations, the management then has a wide area of choice to carry out its decision. In arriving at the final solution, the management must weigh the advantages of certain types of plans against the advantages of other types of plans. The foregoing has attempted to point out some of the choices open to the management.

A Decade of Progress Towards Socialism

“WHAT I see in Washington day by day and week by week is the government taking steps, one at a time, down the road to complete government control. These steps are sold to the American people, one at a time, as a promise of greater security, but at the ultimate price of personal liberty and individual incentive. . . .

“If anyone in 1939 could have looked ahead and seen what would happen ten years from then . . . he wouldn't have believed it.

“For example, he would have seen that in this peacetime year he would be paying more than three times as much taxes as he was paying then. That's about the same as if he worked one week out of every four, for free, for the government.

“He would have been told that since we have given more than \$72 billion to other countries in the world; that we have in Washington more than 258 well-organized lobbies wanting the government to spend even more millions and billions.

“... He would have seen the government engaged in running more than 100 separate industries or businesses ranging from power plants to rubber factories.

“He would have known Congress would pass a program of Federal housing estimated to cost around \$10 billion over a few years. He would have seen a Federal health plan proposal that would mount to more than \$12 billion a year by 1965.

“If he had been told in 1939 that all this would happen, he simply would not have believed it. Certainly he could not have grasped it.”

—HERMAN W. STEINKRAUS,
President, Chamber of Commerce
of the United States.



Washington and the Utilities

Closer Presidential Control of Regulatory Bodies

FEDERAL regulatory commissions will be moved closer to supervisory control of the Chief Executive under reorganization plans recently proposed by President Truman in the wake of recommendations of the Hoover Commission. Thus far, the Maritime Commission is the first and only regulatory agency to feel the impact of the Hoover Commission proposal for transferring certain commission functions to regular Cabinet department supervision. Under the plan recently sent to Congress by President Truman, the Maritime Commission is handed over to the Department of Commerce. Its duties will be handled through a Maritime Board and Maritime Administrator, with the Department of Commerce having jurisdiction over air, highway, and water transportation in both operating and policy aspects. Only the Interstate Commerce Commission, with its authority over railroads and interstate motor carriers, will remain outside of the Commerce Department's orbit—which is eventually planned to embrace all Federal regulation of interstate transport.

The President made similar proposals with respect to the Interstate Commerce Commission, Federal Power Commission, Federal Trade Commission, Securities and Exchange Commission, Federal Communications Commission, and the National Labor Relations Board. For all six, the President will name the respective chairmen who will have administrative authority, including the right to hire and fire all personnel except heads of major divisions, whose selection by the chairmen will be subject

to approval by the other commissioners. If Congress does not reject the proposal, it means that henceforth the President will name the chairmen of the Federal Power Commission and the Securities and Exchange Commission, which heretofore elected their own chairmen. This also applies to the Interstate Commerce Commission where the chairmanship has been rotated annually.

OF especial interest to public utilities are the President's recommendations for two Cabinet department reorganizations—Interior and Agriculture. These will get additional Assistant Secretaries. The President's proposal would transfer the duties now performed by special agencies within the two departments (and several others) to the top Secretaries. Functions of the Reclamation Bureau would be exercised directly by the Secretary of Interior, or delegated by him to an Assistant Secretary. Similarly, functions of the Rural Electrification Administration would be transferred to the Secretary of Agriculture. The idea, following the Hoover Commission report, is to make all department subdivisions directly responsible to the Cabinet Secretary who is, in turn, responsible to the President. Unless unexpected opposition develops in Congress within sixty days from March 13th, these recommendations of President Truman will go into effect automatically, repealing any inconsistent provision of previous laws. Thus far, his reorganization plan No. 12, revamping the National Labor Relations Board in such manner as to entirely eliminate the chief counsel, is the only plan that has aroused an appreciable amount of congressional ire. Opponents of this plan are outspoken in their

WASHINGTON AND THE UTILITIES

charges that its sole purpose is to remove Robert L. Denham, present chief counsel, who has declined to subordinate himself or the functions of his office to the dictates of the board members, most of whom apparently are partial to organized labor.

Federal Control of Industrial Safety

SLLEEPING quietly, almost unnoticed on the Senate calendar, is a bill (S 1439) to inject the Federal government into the safety of local industrial operations. It was favorably reported, without hearings, by the Senate Labor Committee during the first session. In view of the present near-chaotic condition of the Senate's legislative agenda, the measure is in position to be passed quickly, and almost without notice, because thus far there has been no articulate opposition.

Public utility operations, as well as those of manufacturing industries, would be affected by this safety control measure, introduced by Senators Olin D Johnston (Democrat, South Carolina), Claude Pepper (Democrat, Florida), Virgil Chapman (Democrat, Kentucky), and Wayne Morse (Republican, Oregon). Briefly, it would: (1) establish a Federal fund to promote industrial safety standards through grants-in-aid to states complying with Federal conditions; (2) place control of the funds and administration of the law in the hands of the Secretary of Labor; (3) penalize states without programs conforming to Federal standards; (4) provide Federal supervision over enforcement of state safety plans; (5) require periodic reports on state programs to the Secretary of Labor, who would also have access to state records; (6) give the Secretary of Labor wide discretion over allocation of funds. Two similar bills await action in the House, HR 3283 by Representative George D. O'Brien (Democrat, Michigan), and HR 4997 by Representative Thomas H. Burke (Democrat, Ohio). There is a possibility that neither measure will be

acted on by the House Labor Committee, in which there is presently a tendency to avoid legislation that would inject the Federal government further into affairs of the states.

New Power-marketing Agency

INTERIOR Department's new southeastern counterpart of the Southwestern Power Administration has perfected its organization, which has been approved by Secretary Chapman. There have been several earlier attempts to get this power-marketing agency started. It was denied funds in the second session of the 80th Congress, but received an initial appropriation of \$70,000 during the first session of the 81st Congress. The Budget request for 1951 of \$175,000 was whittled to \$150,000 by the House Interior Appropriations Subcommittee. This amount will be about sufficient to complete basic organization. The new agency will market power from Army Engineer-built hydroelectric projects in ten southeastern states. Secretary Chapman has named Ben Creim as Administrator. He is a former Bonneville Power Administration official and Pacific Northwest trouble shooter for Assistant Interior Secretary C. Girard Davidson. The new agency will be promoted aggressively by Interior, in order to consolidate its position in advance of any rival "valley authority" organization in the future. Power to be marketed from the Army Engineers projects is estimated at 1,380,000 kilowatts, compared with 600,000 kilowatts marketed by Southwestern Power Administration.

There is little doubt that Southeastern plans to adopt the SWPA-REA type of alliance, to expand its own operations through contracts with "super co-operatives" having generating and transmission facilities. This could indicate that planners of the new agency are not too optimistic about having better luck than their southwestern cousin, in the matter of obtaining generating-transmission appropriations directly from Congress. At the recent National Rural Elec-

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tric Coöperative Association convention in Chicago, Secretary Chapman gave clues to the activities of the new body when he said it, "like others in the department, will give preference in marketing, over a 6-year period . . . to coöperative and public bodies." He added: "Since the projects in the Southeast are widely distributed, we hope and expect to serve many of the REA groups either directly or through the generating and transmitting coöperatives now being formed."

Webster Heads Defense Unit

WILLIAM WEBSTER, executive vice president of the New England Electric System of Boston, Massachusetts, since 1942, has been sworn in as chairman of the Research and Development Board of the Department of Defense, a post of extreme importance in the nation's over-all defense planning.

Although not a scientist, Mr. Webster has made a specialty of applying his skill as a trouble shooter to some of the nation's tough scientific problems. That he has been successful, is attested by the fact that, at the age of forty-nine, he has moved into a position which has come to be a top scientific assignment. He has been working in the field of weapon research and development since the early days of the war, and also has had an important part in the area of atomic energy.

A graduate of the U. S. Naval Academy, Mr. Webster has also received BS and MS degrees at the Massachusetts Institute of Technology. He began his utilities career as assistant to the president of the New England Power Association in Boston, later moving over to the New England Electric System where his advance was rapid.

Interior versus FPC

THE Interior Department has undertaken a move which, if successful, would strip the Federal Power Commission of its licensing authority over hydro-

electric developments, thus reducing its status to that of a regulatory agency in the field of natural gas alone. This has become apparent in an unprecedented appearance of Secretary of the Interior Oscar L. Chapman before the commission with a view to having it reverse itself in the granting of a license to the Pacific Gas and Electric Company last October for hydroelectric developments on the North Fork of the Kings river in California.

Chapman's appearance before the commission was during rehearsings on the case, held at the request of Interior. The department, as intervener in the matter, objected to the commission's unanimous order of last October, granting the license to PG&E. He explained: "I wish to appear in person because a final decision in this Kings river power case will have a vital effect in continuing or reversing a national power policy to which this government is committed."

Interior attorneys presented a hastily prepared "comprehensive plan" for the development of Kings river by the government. It was the absence of such a plan, as well as congressional approval of the same, which was the principal basis for the commission's licensing of PG&E, which claimed to be ready, willing, and able to proceed. Although both sides had informed the commission that no new evidence was to be presented during the rehearing, Secretary Chapman asked that a number of "new developments" be incorporated into the record. One was a letter to Chapman, dated March 17th, from Budget Director Pace, which presented President Truman's views favoring Federal development of the Kings river and its eventual inclusion in the Central Valley program. Chapman also disclosed that a detailed project planning report on Interior's North Fork program had been sent to both houses of Congress on March 20th—just one day before the rehearing was scheduled.

Members of the FPC appear aware of the high stakes involved in the decision, regardless of the pressure put upon it directly from the White House.

Exchange Calls And Gossip



FCC Reorganization Plan

PRESIDENT Truman's reorganization plan for the Federal Communications Commission may be headed for trouble in the Senate. This plan, submitted to Congress last month as part of a regulatory commission reorganization package, has stirred up radio and television interests, as well as Senators who are politically sensitive to the impact of the FCC function on the nation's networks. The main difficulty seems to be that the President's plan centers all FCC administrative duties in a presidentially appointed chairman. This is said to conflict with the McFarland Bill (S 1973) to reorganize the FCC. The Senate already has approved the McFarland Bill and the administration is reported to be trying to stall action on it before the House Interstate and Foreign Commerce Committee.

The aim of the McFarland Bill is to increase the independent regulatory status of the FCC. It would separate the members from the direct influence of the commission's staff. It would reorganize the commission's staff along "functional" lines, according to the various communications industries regulated (i.e., telephone, telegraph, radio broadcasting, etc.). The President's plan would tie the staff more closely to the commission through the direct control of the chairman. He would have the authority to hire and fire and assign staff personnel. Radio and broadcasting interests have criticized the President's proposal for ignoring the bipartisan nature of the FCC. They point out that the FCC chairmanship has turned over rapidly (eight during the past sixteen years). As a result, a movement was reported under way in the Senate to veto the President's

reorganization plan as applied to the FCC — at least until Congress decides what it wants to do about its own reorganization of the FCC in its disposition of the McFarland Bill.

Rate Increase Rejected

THE Maryland Public Service Commission recently rejected the Chesapeake & Potomac Telephone Company's request for higher telephone rates and made present rates permanent.

Existing rates were established on a temporary basis a year ago. Increases granted at that time were designed to produce \$4,087,000 in gross income annually. The commission continued these increases but dismissed a petition for permanent rates providing an additional \$2,500,000.

Appeal to the courts was indicated in a company statement issued shortly after the commission filed its opinion and order.

W. G. Morrel, vice president and general manager of the company, said "Failure of the commission to grant the company additional rate increases simply means that we must now consider what further steps will be required to restore our earnings to a satisfactory level. Protection of the interests of the public we serve, the people who have invested their savings in the telephone business, and our employees, demands that we exhaust every means at our disposal to insure the financial soundness of this company."

Mr. Morrel said the commission's action prevented the company from "restoring" its "earnings to even the pre-war level."

In reaching its decision, the commis-

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sion found the company could "reasonably expect to earn a net of \$6,176,850" under existing rates. This would produce a return of 5.54 per cent on the rate base. The commission set the rate base at September 30, 1949, at \$111,594,909. It included in this amount the full \$1,594,909 claimed for materials and supplies but refused to allow anything for working capital.

Told to "Clean House"

CHAIRMAN Wayne Coy of the Federal Communications Commission last month called on radio and television to "clean house" in the matter of crime programs and "lively stable humor." The FCC chairman warned the broadcasting industry that if it does not act on its own motion, public opinion will demand "the more drastic remedy of governmental action." He indicated such action might take the form of restrictive legislation by Congress.

The chairman expressed his views in an address prepared for the annual state radio conference at the University of Oklahoma. He emphasized, however, that what he had to say was addressed to every radio and television broadcaster in the country. The commission and Congress, he said, have been flooded with complaints from the public, protesting crime and humor material carried over some stations and some networks.

Rail Broadcasts Left in Air

IN a split decision, the New York Public Service Commission closed the proceedings against the operation of the public address system by the New York Central Railroad. Paradoxically, the decision made it possible for the railroad to resume the broadcasts at any time and would necessitate initiation of another proceeding if the public found them irksome. The "commercial" and "canned music" broadcasts were discontinued in Grand Central Terminal on January 2nd.

A minority opinion, written by Commissioner George A. Arkwright, sought

to place a time stipulation during which the New York Central would be banned from resuming broadcasts. While Commissioner Arkwright was seconded by Chairman Benjamin F. Feinberg, a 3-to-2 vote supported Commissioner Glen R. Bedenkapp in the view that the commission "does not possess the power to ban such broadcasting *per se*."

The commission's decision noted that the railroad had discontinued the operation of the loud-speaker system after the commission had instituted an investigation on December 14th. Commissioner Bedenkapp, in the majority opinion, said "The railroad having voluntarily abandoned broadcasting, there is nothing before us for determination."

REA Phone Loan Appropriation

THE Department of Agriculture Subcommittee has approved a total of \$25,000,000, to be borrowed from the Treasury on the same basis as for rural electrification loans, for the new rural telephone program.

This amount, reported in the general appropriation bill for 1951, is the same as that authorized for 1950 and is a decrease of \$25,000,000 in the budget estimate for 1951. The committee, it was said, felt that this loan authorization should be limited to the 1950 level until further evidence is available to indicate the demand for loans under this program.

Rural Phone Bill Passes

LEGISLATION authorizing rural telephone cooperatives, which would obtain Federal loans for extension of rural telephone service, was given final passage by the Kentucky legislature last month and sent to the governor for signature.

As finally enacted, the measure was reported to be a compromise resulting from objections raised by counsel for the Southern Bell Telephone & Telegraph Company. Proponents of the cooperatives said they were satisfied with the final results.

EXCHANGE CALLS AND GOSSIP

Jersey Bell Hits Demand

NEW JERSEY BELL TELEPHONE COMPANY recently labeled as "preposterous" the demand of the phone operators' union for a \$7-a-week wage boost and other benefits it said would be the equivalent of a \$25-a-week increase for each traffic department employee.

Opening its case before a special 5-member arbitration board in Newark last month, the company charged the union made its demands "with the hope that a board of arbitration would settle the issues on a basis of compromise rather than on the basis of merit."

In a statement of the company's position in the dispute with Traffic Division 55, Communications Workers of America, CIO, the company estimated that the total union demands would cost between \$13,000,000 and \$14,000,000 more a year.

"The union's case has been an emotional appeal supported by little factual evidence," the company stated. "The union has offered virtually nothing that had not been considered by the fact-finding panel which heard the union's case two months ago. That panel concluded that the union's wage demands should be denied."

The company said that costs of wage increases already granted employees were almost double what the company had been reimbursed in the form of rate increases. It stated that basic wage rates of New Jersey Bell traffic employees have more than doubled in the past ten years. "They have increased 130 per cent during a period when the cost of living has increased only 67 per cent," the company said.

New Phone Tariff Suspended

THE tariff the New England Telephone & Telegraph Company filed on March 1st with Rhode Island's Public Utilities Administrator Thomas A. Kennelly was formally suspended by him on March 16th. At the same time he ordered a full hearing on the company's bid for \$1,704,000 in added annual revenue.

It was scheduled to open March 30th.

Kennelly's action set the stage for the third major round of telephone rate hearings. The new tariff the NET&T had filed was expected to boost subscriber's bills from 25 to 75 cents a month and give the company a 7 per cent return on its investment, an amount it contends is needed to attract risk capital.

Kennelly said he believes "that the public interest requires a more thorough and complete investigation" of the proposed rate increase, in the formal notice which was served on the phone company.

The rate cases began in 1947 when the telephone company sought a jump designed to give it \$2,800,000 in added annual revenue. After long months of hearing, Kennelly fixed a rate base and gave the company \$1,200,000 of new revenue in April, 1948. Appealing this case after it had imposed higher rates to yield the granted revenue boost, the phone company in October, 1948, asked Kennelly for another increase which, coupled with the \$1,200,000 it already had, would have resulted in a \$4,000,000 annual income jump.

In a decision handed down by the appeal board in December, the company won a \$3,100,000 revenue increase over 1947 figures and a finding that it was entitled to a 6 per cent return on its investment.

The company claims the revenue accruing to it will not produce the 6 per cent return allowed by the board. It further contends that it needs a 7 per cent return to attract venture capital desired for expansion and construction.

Third REA Phone Loan Made

THE REA has allocated \$95,000 for a loan to the Pattersonville Telephone Company, Rotterdam Junction, New York, for improvement of service to its 438 telephone subscribers and extension of service to over 100 applicants waiting to be connected, the U. S. Department of Agriculture announced on March 24th.



Financial News and Comment

By OWEN ELY

Wall Street Analyses of Utility Securities

THERE is considerable current interest in the four stocks of United Light & Railways' subsidiaries, which are now all being traded (three on a when-issued or when-delivered basis). L. F. Rothschild & Co. has issued an analysis of Kansas City Power & Light Company. The stock is currently being offered to stockholders of United Light & Railways at \$12 per share on the basis of 3 shares of Kansas City for each 5 shares of United Light.

Kansas City Power & Light distributes electricity to areas in Missouri and Kansas, and in part of northern Iowa, with gas and steam-heating service supplied in parts of the territory. Electric service supplies 92 per cent of revenues, gas 5 per cent, and heat and water 3 per cent. Kansas City is a rail and air transportation center, serving a large area and specializing in meat packing, grain storage, milling, etc. Other industries in the territory around the city include auto assembly plants, oil refineries, a steel plant, garment factories, etc. Other areas are largely agricultural. Industrial sales account for only 17 per cent of revenues, with residential and rural 33 per cent, and commercial 34 per cent.

Capital structure is 44 per cent mortgage debt, 7 per cent notes, 17 per cent preferred stock, and 32 per cent common stock equity. The company's mortgage bonds are rated Aaa by Moody and the

preferred stock is selling to yield 3.78 per cent, indicating the company's good credit rating.

The company expects to spend over \$43,000,000 in 1950-52 and part of the required funds will probably be met by issuance of additional common stock, according to Rothschild.

EARNINGS for 1949 approximated \$2 a share after adjusting for the split-up in the number of common shares, but *pro forma* adjustment of Federal income taxes to an independent corporate status reduced the amount to \$1.93. This compares with an estimate of \$2.11 made last summer. Based on the quarterly dividend paid March 20th the indicated annual rate will be \$1.60. With the stock currently around 30½ the yield is 5¼ per cent.

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FINANCIAL NEWS AND COMMENT

The company's plant account is unusually clean—original cost with no 100.5, and a negligible amount of intangibles. Depreciation reserve is 24 per cent of gross plant. Cash account was recently bolstered by sale of \$5,000,000 common stock to the parent company.

The rate of return for 1949 was 5.63 per cent on net plant and working capital, including also the \$5,000,000 equity money for construction, according to Rothschild's calculation. Present residential rates reflect a reduction made in 1946, at which time the Missouri commission held that earnings exceeded 6½ per cent on the rate base.

Geyer & Co., Inc., over-counter specialists in utility and bank stocks, has issued studies on the stocks of three new Iowa companies. Iowa-Illinois Gas & Electric and Iowa Power & Light are now being traded on the Curb on a "WD basis" with distribution (free) by United Light & Railways expected in May or June as one of the final steps in that company's distribution. Iowa Public Service is a recapitalized company reflecting a merger of Sioux City Gas & Electric with its former subsidiary; the stock is traded over-counter.

IOWA-ILLINOIS GAS & ELECTRIC is expected to report about \$2.80 for 1949 after eliminating nonrecurring tax savings, which is about the same as the projection made last summer in the SEC hearings. The company is expected to pay \$1.80, about a 65 per cent pay-out. At the current price around 30 the indicated yield is 6 per cent, which is substantially higher than that on Kansas City Power & Light. Geyer & Co. states:

Few operating utilities in the country reveal as strong a capital structure as that reported by this company. There is no preferred stock outstanding and the common equity of around 42 per cent ranks among the highest for any utility. In fact, since no new financing is contemplated in either 1950 or 1951, retained earnings may lift this figure even higher to an estimated 45 per cent next year. . . . Over

25 per cent of operating revenues is brought down to common stock.

Large amounts of natural gas are available to the company for boiler fuel on an "interruptible supply" basis, but since nearly 40 per cent of revenues is normally derived from the sale of natural gas, reduced supply of the interruptible gas would only imply greater needs for direct sale and hence greater revenues in this division. This is a stabilizing influence on earnings and of paramount importance in evaluating the company's securities.

While the company has officially projected earnings on a descending scale through 1951, there are many reasons to believe that such forecasts are extremely conservative. Decline in sales of electricity through the Power Pool and loss of construction credits are likely to be offset by greater economies in generating and by added supplies of natural gas for profitable resale. There is no state commission regulating rates in Iowa, but as it is, rates charged by the company are low in the nonregulated portion of the territory as well as in the regulated.

THE company serves the so-called Quad cities—Rock Island, Moline, and East Moline, Illinois; and Davenport, plus Fort Dodge and Iowa City. Revenues are about 52 per cent electric, 38 per cent natural gas, and 10 per cent transit. (Transit property will probably be sold.) The section is a prosperous agricultural area with a moderate amount of industry, including farm implement plants, iron and steel foundries, steel fabricators, railroad shops, and makers of heating and ventilating equipment. Electric revenues are 31 per cent residential, 26 per cent commercial, and 30 per cent industrial. Because of a restricted supply of natural gas the company has had to limit its house-heating business so that it is probably less than one-quarter of the potential demand; increased pipe-line capacity should stimulate this business in 1951-52.

The 42 per cent equity for the common

PUBLIC UTILITIES FORTNIGHTLY

stock is well above average; plant account is stated at original cost and the depreciation reserve appears ample at 25 per cent. While it has been estimated by the company that earnings might decline to \$2.34 a share in 1951, this should still support the indicated \$1.80 dividend rate, considering the large stock equity. Regarding residential rates, Geyer & Co. states, "Except in the outlying areas, rates are distinctly on the low side. The fact that the company has abnormally low rates in areas where it is not subject to state regulation, as well as in the regulated territory, suggests that the high rate of return (now around 11 per cent but likely to be about 8.5 per cent in 1951) is not an indication that the earnings are vulnerable because of pressure for rate reductions. After allowing for new plant being constructed, the company's rate base will be materially increased and its rate of return sharply reduced."

Iowa Power & Light Company is currently around 23, yielding 6.1 per cent based on the projected \$1.40 dividend rate. The company serves electricity and natural gas to a large area in central and western Iowa, and, contrary to general belief, this area (particularly around Des Moines) is expanding at a rapid rate. The company is fortunate in having natural gas for about half of its boiler fuel and additional supplies of gas next year will replace higher cost coal. A new 40,000-kilowatt generating plant will go into operation this year. On an independ-

ent tax basis, earnings for 1949 may approximate \$1.80 a share; \$1.78 and \$1.95 are projected for 1950 and 1951, respectively.

LAST year the company acquired Western Iowa Power operating in and around Council Bluffs, and other acquisitions would be logical, according to Geyer & Co. Revenues are about 75 per cent electric, 24 per cent natural gas, and 1 per cent heat and ice. Electric revenues are 42 per cent residential and rural, 25 per cent commercial, and 19 per cent industrial. The trend in the gas business has been sharply upward, with house-heating revenues tripling since 1944 despite an inadequate supply.

While plant account probably includes about \$6,000,000 of plant acquisition adjustments, only about half this amount will probably be written off, with the balance amortized. Present capital ratios are 54 per cent debt, 9 per cent preferred stock, and 37 per cent common equity; the latter would be reduced to 34 per cent after the estimated write-off.

Iowa Public Service has operating revenues of over \$18,000,000, and its net utility plant is \$50,000,000. *Pro forma* earnings for the twelve months ended November 30th approximated \$2.21, compared with \$1.63 in the previous period. Dividends have been initiated at the rate of \$1.20 per annum, thus affording a current yield of 5½ per cent based on the current price around 23, the low

CURRENT COST OF UTILITY FINANCING

Yields on Various Types of Utility Securities

	Recent	1949-50 Range		1948 Range	
		High	Low	High	Low
*Government Bonds—Tax Exempt	1.34% ^b	1.82%	1.32%	2.08%	1.68%
—Taxable	2.25 ^b	2.40	2.14	2.44	2.38
*Utility Bonds—Aaa	2.58 ^a	2.77	2.55	2.90	2.72
—Aa	2.64 ^a	2.84	2.63	3.01	2.82
—A	2.76 ^a	3.02	2.75	3.09	2.92
—Baa	3.16 ^a	3.45	3.15	3.49	3.26
Utility Pref. Stocks—High Grade	3.73 ^a	4.02	3.73	4.20	3.88
—Medium Grade	4.13 ^a	4.57	4.13	4.65	4.44
Utility Common Stocks	5.29 ^b	6.26	5.28	6.41	5.48

* Long Term. a—Moody Index. b—Standard & Poor's Index.

FINANCIAL NEWS AND COMMENT

yield reflecting the conservative pay-out. No equity financing is anticipated over the next two years; about \$3,000,000 bonds and \$5,000,000 stock may be sold.

Including 24,000-kilowatt generating capacity scheduled for installation by the end of 1951, nearly half the generating capacity will be only six years old or less at that time.

The company serves a large area in the northern part of the state, also Sioux City in the western part and Waterloo and adjacent areas in the east. (Small areas in South Dakota and Nebraska also are served.) Revenues are 73 per cent electric and 25 per cent gas. Electric revenues are 42 per cent residential and rural, and only 18 per cent industrial.

Capital structure is 54 per cent debt, 15 per cent preferred, and 31 per cent common equity. During the hearings on the merger plan, earnings of \$2.16 for 1950 and \$2.27 for 1951 were forecast, but Geyer & Co. thinks that 1950 may exceed \$2.30 a share. As stated before Iowa rates are not regulated.

Rate Increases in 1947-49

THE Edison Electric Institute points out that during the three years 1947-49 there have been 186 requests for rate increases by 125 electric companies (presumably for both gas and electric in some cases); 174 of these petitions have been granted, 4 are still pending, and only 8 have been denied or withdrawn. Municipal plants and other government agencies during the same period made some 370 rate increases.

Up to 1949 most applications were for permission to make greater use of fuel "escalator clauses" in rate structures. More recently applications for general increases have predominated.

What Kind of Stockholders Does A Utility Want?

MOST industrial companies seek a wider distribution of their common stock so as to gain increased public in-

terest (as a protection, perhaps, against political persecution). Many big utilities such as American Telephone are justly proud of their large stockholders' lists, including a heavy proportion of "widows and orphans" as an indication of investor confidence in their policies.

A big stockholder list is not welcome, however, to the small utility which finds itself burdened with heavy expenses for mailing reports, proxies, and other literature, as well as the cost of disbursing dividends to such a large family. This is mainly the case where the stock has been split off from a large holding company, so that each stockholder in the big organization received a fractional share in the relatively small subsidiary.

Most of the utilities newly introduced to the investing public are anxious, however, to obtain a good backlog of local investors. Thus Texas Utilities Company found, after separation from American Power & Light, that only a small fraction of its stockholders lived in Texas. It persuaded the SEC to defer the listing of the new stock on a national stock exchange for a year, hoping during the interim to place a substantial part of the stock in the hands of Texans through the efforts of local over-counter brokers. The compensation in over-counter transactions is usually larger than the Stock Exchange commission.

In a recent talk before the New York Society of Security Analysts, President Gadsby of Utah Power & Light displayed a map showing that 65 per cent of his company's stock was held in the West compared with 18 per cent in New York, 9 per cent in New England, 6 per cent in the Midwest, and 2 per cent in the South. (Based on number of stockholders the figures were even more impressive.) This seems to indicate a sound relationship with local investors.

1949 Earnings of Electric and Gas Utilities

ELECTRIC utility companies reporting to the Federal Power Commission in the calendar year 1949 made the follow-

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ing showing (see also accompanying chart, opposite page):

	Percentage Changes	
	Increase	Decrease
Number of Customers	3.9%	
Kilowatt-hour Sales	1.6	
Revenues	4.9	
Expenses, Depreciation, and Taxes	2.9	
Operating Income from Other Services	32.7	
Gross Income	13.7	
Interest on Long-term Debt 14.4		
Miscellaneous Income		
Deductions		34.6%
Net Income	14.7	

During the year investment in electric utility plant increased 11.3 per cent, while the reserve for depreciation and amortization was up only 6.6 per cent, so that net utility plant increased 12.6 per cent.

FOUR factors were important contributors to the gain in net income: (1) While residential customers increased only 4.2 per cent, residential kilowatt-hour consumption was up 13.1 per cent, indicating a considerable increase in residential use of appliances, including television sets. However, residential revenues increased only 11 per cent; scattered rate increases allowed by state commissions were more than offset by the operation of fuel adjustment clauses and promotional rates for appliances. Thus the over-all rate for residential use of electricity continued its historic decline in 1949.

(2) Fuel costs for the year were down 8.9 per cent, reflecting lower prices for coal and oil (particularly the latter), moderate improvement in hydro operations, and lessened use of obsolete generating units as the industrial load declined and new and efficient plant units came into service. (3) Earnings from gas, transit, and other miscellaneous services showed a sharp "comeback," resulting from emergency or interim rate increases, sharply lower oil prices in the first half of 1949, improved equipment, some transition to natural gas, etc. (4) Unfortunately the size of the credit for "interest charged to construction" is not indicated, but the increase in this item seems re-

flected in the sharp decrease in "other income deductions."

OF the \$206,000,000 increase in revenues for the electric utilities in 1949, about \$97,000,000 was carried down to net income. Fuel expense would normally have increased about 2 per cent (in proportion to kilowatt-hour output) or about \$15,000,000, but instead declined \$69,000,000 making a total gain of \$84,000,000. The improved earnings from gas and other services contributed some \$15,000,000, so that these two items were responsible for the improvement in net income. The decrease in miscellaneous income deductions (largely nonoccurring) approximated \$4,000,000.

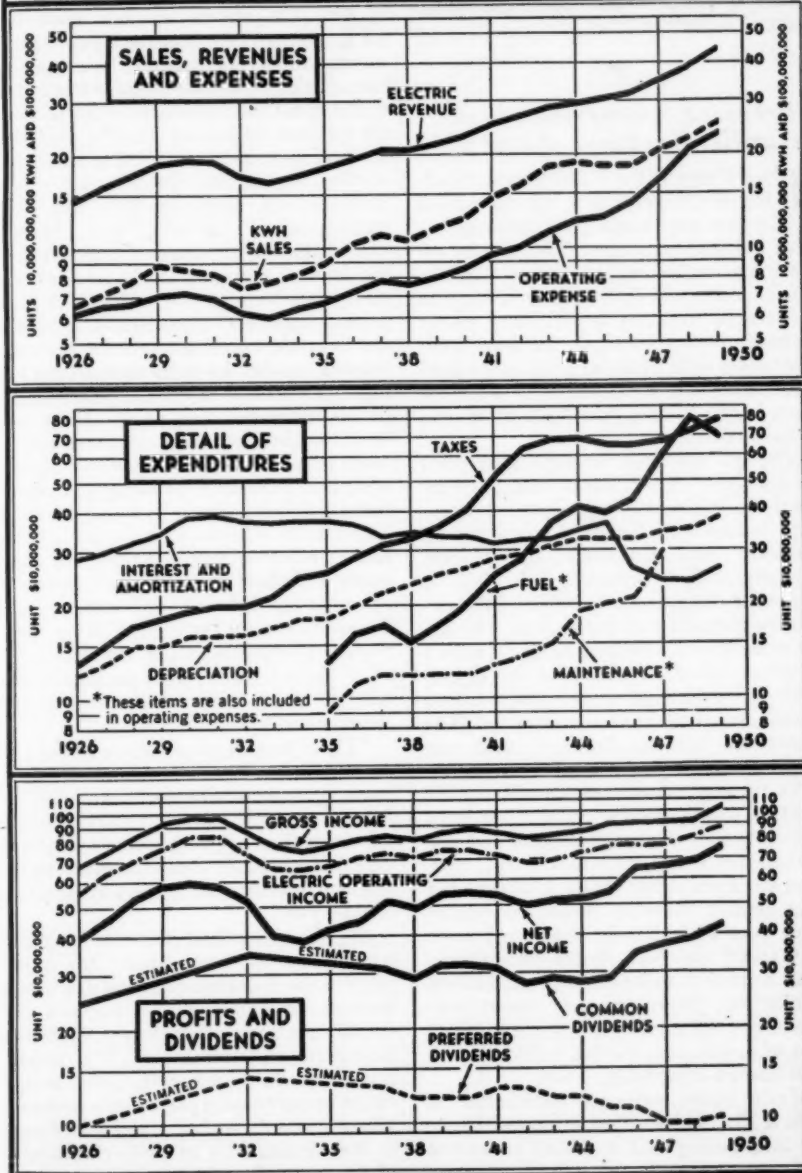
For the month of December net income gained 11.4 per cent, although total sales of electricity increased less than 1 per cent over 1948.

Natural gas companies reporting to the Federal Power Commission in the calendar year 1949 made the following showing:

	Percentage Changes	
	Increase	Decrease
Number of Customers	6.2%	
MCF Sales	12.0	
Revenues	11.8	
Expenses, Depreciation, and Taxes	12.9	
Operating Income from Other Services	19.9	
Gross Income	8.9	
Interest on Long-term Debt 30.8		
Miscellaneous Income		
Deductions		30.9%
Net Income	5.1	

The natural gas companies had to pay about \$60,000,000 more for purchased gas in 1949, as compared with \$104,000,000 in increased revenues. Salaries and wages increased 9.5 per cent and other expenses 13.8 per cent. Thus the gain in gas operating income was only 6.8 per cent as contrasted with the electric utilities increase of 13.8 per cent in electric operating income. The natural gas companies were somewhat handicapped as to house-heating operations by warm weather conditions; residential sales increased slightly less than the number of customers.

TREND OF SALES AND EARNINGS OF ELECTRIC UTILITIES



PUBLIC UTILITIES FORTNIGHTLY

The aggregate natural gas utility plant increased 14.8 per cent during the year, the reserve for depreciation and amortization 7.7 per cent, and the net gas utility plant 17.6 per cent.

Proposed Amendments to the Securities Exchange Act of 1934

THE Frear Bill (S 2408) now pending in Congress proposes to extend SEC power over some 1,800 corporations with unlisted securities. This would require any such company having \$3,000,000 in assets and 300 security holders to prepare informatory reports and proxy material similar to those required from companies with listed securities; it would also make similar restrictions with respect to the trading privileges of officers of such companies.

The bill has been strongly supported by the New York Society of Security Analysts, which was represented in hearings before the Senate Committee on Banking and Currency by Marvin Chandler, vice president of Reis & Chandler, Inc., and a member of the executive committee of the society. The latter committee's vote was 17 to 1 (with 1 member neutral) in favor of full disclosure of information by corporations whose securities are widely owned. The committee did not, however, take any position on the proxy regulation or "insider trading" aspects of the bill.

Mr. Chandler in his testimony pointed out that of the 184 electric, gas, and water utilities of any importance, with common stocks in public hands, 113 or 61 per cent remain unlisted. These companies have over \$5 billion in assets and some 96,000,000 common shares outstanding with a market value of over \$2 billion. While they represent only about one-quarter of the total in terms of aggregate size of assets, etc., the list includes some well-known companies.

Cyrus Eaton, principal stockholder of Otis & Co., had testified in opposition to the bill, stating that it should be known as "a proposal to increase the business of

the New York Stock Exchange and expand the hamstringing activities of the SEC."

MR. CHANDLER in his testimony pointed out that the new requirements would not necessarily mean that the utilities with over-counter stocks had failed to list their stocks in order to avoid the present requirements. He said that some of them had bonds and stocks listed, so that registration statements are filed with the SEC under the 1934 Act. "The managements," he said, "must be convinced that continuance of unlisted trading in their common stocks is a prudent policy not because they can avoid filing certain reports with the SEC but because the over-the-counter market constitutes a better market for their shares than listing on a national exchange. Surely many of the industrial companies' stocks now in the unlisted markets are there for the same reasons as are those utility companies, and avoidance of filing of basic financial information is not one of them. . . . Utility companies have been living in the proverbial 'goldfish bowl' for many years and their decisions as to whether or not to list their common stocks cannot be said to rest on the issue of filing registration statements under the 1934 Act. . . . I do not believe that passage of this bill will mean a death blow to the over-the-counter market.

"There may be cases where because of an unusual competitive situation or for other reasons, disclosure of financial information would be unnecessary or harmful rather than helpful to security holders. The SEC certainly should be given power to grant specific exemptions in instances of this type."

Mr. Chandler held that "the over-the-counter market undoubtedly has a real place in the country's financial machinery because for many types of issues it constitutes a better market than an exchange. However, its usefulness as a market should be established on its ability to provide a better trading place in the instances where it can do so, but without reference to the situation as to proper standards of disclosure."

FINANCIAL NEWS AND COMMENT

RECENT FINANCIAL DATA ON GAS COMPANY STOCKS

	3/21/50 Price About	Indicated Dividend Rate	Approx. Yield	12 Mos. Ended	Share Cur. Period	Earnings Prev. Period	% In- crease	Price- Earnings Ratio
Natural Gas—Retail								
C Arkansas Natural Gas	11 1/2	\$.60	5.2%	Dec.	\$1.44	\$.80	80	8.0
O Atlanta Gas Light	22	1.20	5.5	Dec.	1.90	1.71	11	11.6
S Columbia Gas System	13	.75	5.8	Dec.	.87*	1.12*	D22	14.9
C Consol. Gas Util.	14	.75	5.4	Jan.	1.53	1.77	D14	9.2
S Consol. Nat. Gas	45	2.00	4.4	Dec.	3.59	3.75	D4	12.5
O Houston Nat. Gas	16	.80	5.0	July	1.45	1.42	2	11.0
O Indiana Gas & Water	23	1.20	5.2	Jan.	1.87	1.42	32	12.3
O Kansas-Neb. Nat. Gas	18	1.00	5.6	Dec.	1.63	1.55	5	11.0
S Laclede Gas Light	7	.20	2.9	Sept.	.84	—	—	8.3
C Lone Star Gas	24	1.20	5.0	Dec.	1.79	2.26	D21	13.4
O Minneapolis Gas	18	1.00	5.6	Dec.	1.03	1.10	D6	17.5
O Mission Oil	43	2.20	5.1	Dec.	2.05	2.04	—	21.0
O Mobile Gas Service	26	1.60	6.2	Dec.	2.72	2.83	D4	9.6
S Montana-Dakota Util.	13	.80	6.2	Sept.	1.36	1.27	7	9.6
C National Fuel Gas	13	.60	4.6	Dec.	.88	.61	44	14.8
C Okla. Natural Gas	35	2.00	5.7	Jan.	3.07**	2.60**	18	11.4
S Pacific Lighting	55	3.00	5.5	Dec.	2.86**	3.96**	D28	19.2
C Pacific Pub. Service	15	1.00	6.7	Dec.	2.08	3.21	D50	7.2
S Peoples Gas L. & C.	135	6.00	4.4	Dec.	10.23	8.82	16	13.2
C Rio Grande Valley	2	.12	6.0	Dec.	.19	.20	—	10.5
O Rockland Gas	33	1.70	5.2	Dec.	2.73	3.36	D19	12.1
O Southern Union Gas	21	.80	3.8	June	1.53PF	—	—	13.7
O Southwest Nat. Gas	7	.20	2.9	Sept.	.33	.31	7	21.2
S United Gas	19	1.00	5.3	Dec.	1.43	1.71	D16	13.3
S Washington Gas Light	26	1.50	5.8	Jan.	1.78	1.73	—	14.6
Averages			5.2%					12.8
Natural Gas—Wholesale and Pipeline								
S American Natural Gas	33	\$1.20	3.6%	Sept.	\$1.71	\$.33	418	19.3
S El Paso Nat. Gas	28	1.20	4.3	Dec.	1.92	2.33	D18	14.6
O Interstate Nat. Gas	31	2.00	6.5	Dec.	2.03	1.71	19	15.3
O Mississippi Riv. Fuel	38	2.00	5.3	Sept.	2.48	—	—	15.3
O Missouri-Kansas P.L.	49	1.60	3.3	July	3.53†	—	—	—
O Mountain Fuel Supply	22	.60	2.7	Dec.	.91	.94	D3	24.2
S Northern Nat. Gas	39	1.95	5.0	Dec.	2.73**	2.60**	5	14.3
S Panhandle East. P.L.	49	2.00	4.1	Dec.	2.54	2.35	8	19.3
O Republic Natural Gas	48	1.00	2.1	June	3.03	2.72	11	15.8
S Southern Nat. Gas	37	2.00	5.4	Sept.	3.00	2.76	9	12.3
O Southern Production	12	—	—	June	.37	.28	32	32.4
O Southwest Gas Prod.	13	—	—	Dec.	.47	.14	236	27.7
O Tenn. Gas Trans.	32	1.40&Stk.4.4	—	Dec.	1.65**	1.27**	30	19.4
O Texas Gas Trans.	18	—	—	Dec.	.81	.66	23	22.2
O Texas East. Trans.	20	6 1/4%&Stk.—	—	Dec.	1.58	1.18	34	12.7
Averages			4.2%					18.9
Manufactured Gas—Retail								
C Bridgeport Gas	24	\$1.40	5.8%	Dec.	\$1.60	\$1.69	D5	15.0
O Brockton Gas Lt.	19	1.00	5.3	Dec.	1.48	.43	244	12.8
S Brooklyn Union Gas	40	2.00	5.0	Dec.	4.32	1.21	257	9.3
O Hartford Gas	37	2.00	5.4	Dec.	2.67	1.85	44	13.9
O Haverhill Gas Lt.	28	1.80	6.7	Jan.	2.13	1.67	28	13.1
O Jacksonville Gas	32	1.40	4.4	Dec.	6.06	5.64	7	5.3
C Kings County Ltg.	8	.40	5.0	Sept.	.33#	—	—	—
O New Haven Gas Light	29	1.60	5.5	Dec.	1.76	1.77	—	16.5
O Providence Gas	10	.60	6.0	Dec.	.73	.64	14	13.7
O Seattle Gas	15	.60	4.0	June	1.01	.44	130	13.9
S United Gas Improvement..	27	1.30	4.8	Sept.	1.89	2.00	D6	14.3
Averages			5.3%					12.8

PUBLIC UTILITIES FORTNIGHTLY

RECENT FINANCIAL DATA ON TELEPHONE, TRANSIT, AND WATER COMPANIES

	3/21/50 Price About	Indicated Dividend Rate	Approx. Yield	12 Mos. Ended	Share Cwr. Prev. Period	Earnings Prev. Period	% In- crease	Price- Earnings Ratio
Telephone Companies								
<i>Bell System</i>								
S Amer. Tel. & Tel.	152	\$9.00	5.9%	Dec.	\$9.22**	\$8.80**	5%	16.5
O Cinn. & Sub. Bell Tel.	75	4.50	6.0	Dec.	4.80	3.76	28	15.6
C Mountain Sts. T. & T.	101	6.00	5.9	Dec.	6.55*	8.30*	D21	15.4
C New England Tel.	94	4.75	5.1	Dec.	7.19	4.59	57	13.1
S Pacific Tel. & Tel.	105	7.00	6.7	Dec.	6.73*	6.81*	D1	15.6
O So. New Eng. Tel.	32	1.80	5.6	Dec.	2.05	1.91	7	15.6
Averages			5.9%					15.3
<i>Independents</i>								
C Associated Tel. A	53	—	—	—	—	—	—	—
S General Telephone	30	\$2.00	6.7%	Dec.	\$2.16	\$2.39	D10%	13.9
C Peninsular Tel.	45	2.50	5.6	Dec.	5.66	5.25	8	8.0
O Rochester Tel.	14	.80	5.7	Dec.	1.13	.80	41	12.4
Transit Companies								
O Chicago S.S. & S.B.	8	\$1.00	12.5%	Dec.	\$.91	\$1.40	D35%	5.7
O Cinn. St. Ry.	5	.30	6.0	Dec.	.77	1.57	D51	6.5
O Dallas Ry. & Term.	11	1.40	12.7	Dec.	2.27	3.39	D33	4.8
O Duluth Sup. Trans.	9	1.00	11.0	Dec.	.44	2.75	D84	—
O Kansas City Pub. Ser.	1	—	—	Aug.	.02	—	—	—
O Los Angeles Transit	4½	.50	11.1	Dec.	.93	.87	7	4.8
S Nat'l. City Lines	9	1.00	11.1	Dec.	1.97	1.57	25	4.1
O Phila. Transit	4	—	—	Dec.	1.03	.31	232	2.9
O Rochester Transit	3	—	—	—	—	—	—	—
O St. Louis Pub. Ser. A.	6	.50	8.3	Dec.	.48	.70	D31	12.5
O Syracuse Transit	19	2.00	10.5	Dec.	.62	1.40	D13	—
O United Transit	2½	—	—	Dec.	.55	.13	246	5.0
Averages			10.3%					6.7
Water Companies								
<i>Holding Companies</i>								
S Amer. Water Works	10	\$.60	6.0%	Sept.	\$.82	\$.74	11%	12.2
O N. Y. Water Service	101	2.00	2.0	Sept.	7.49	2.89	159	13.5
<i>Operating Companies</i>								
O Bridgeport Hydraulic	33	\$1.60	4.8%	Dec.	\$1.62*	\$1.65*	D2%	20.4
O Calif. Water Serv.	31	2.00	6.5	Feb.	2.46**	2.26**	9	12.6
O Elizabethtown Water	105	6.00	5.7	Dec.	6.89	7.33	D6	15.2
S Hackensack Water	33	1.70+	5.2	Dec.	3.35	2.79	20	9.9
Stk. 25%								
O Indianapolis Water	18	.80	3.9	Dec.	1.42	1.19	19	12.7
O Jamaica Water Supply ...	21	1.50	7.1	Dec.	2.27PF	—	—	9.3
O Middlesex Water	57	3.00	5.3	Dec.	4.87	4.94	D2	11.7
O New Haven Water	60	3.00	5.0	Dec.	3.45	3.61	D4	17.4
O Ohio Water Serv.	22	1.50	6.8	Sept.	2.00	2.31	D13	11.0
O Phila. & Sub. Water	24	.80	3.3	Dec.	3.01	2.70	11	8.0
O Plainfield Union Wt.	68	4.00	5.9	Dec.	5.09	5.02	1	13.4
O San Jose Water	33	2.00	6.1	Dec.	2.82	2.75	3	11.7
O Scranton-Spring Brook ...	13	.70	5.4	Sept.	.83	.87	D5	15.7
O Southern Cal. Water	46	3.25	7.1	Dec.	4.08	4.13	D1	11.3
O Stamford Water	56	2.00	3.6	Dec.	2.35	2.21	6	23.8
O West Va. Water Serv. ...	17	1.00	5.9	Dec.	1.48	1.39	7	11.5
Averages			5.3%					13.4

D—Decrease or deficit. E—Estimated. C—Curb Exchange. O—Over-counter or out-of-town exchange. S—New York Stock Exchange. *Based on average number of shares outstanding. **Based on present number of shares now outstanding. PF—Pro forma. #Nine months ended September 30, 1949. †—Seven months ended July 31st.



What Others Think

By-product Public Relations



An example of how public relations benefits and profit can come from a carefully planned community relations program is illustrated in an article appearing in the February issue of the *Country Gentleman* magazine. The story deals with the activities of Clint Spurr, president of the Monongahela Power Company, of Fairmont, West Virginia, and his plan to increase the power company's business by making its customers as prosperous as possible.

Spurr is reported as saying: "How can you sell power to a farmer who isn't prosperous enough to buy it? Help him to be prosperous and he will use power—the more prosperity, the more power. Everything we do has to be justified in dollars and cents in the long run. Let's be frank about that."

The utility executive's program appears to be bearing fruit—and not only in the power company's profit and loss statement. One local newspaper editor, long a public power advocate, has remarked: "The reason I switched to private power is the job the power company is doing on developing our communities. It's a better job than the government can do, and much cheaper on us taxpayers."

Spurr invariably emphasizes its "good business" aspects. Recently, in accepting the Gantt medal for 1949—awarded by the American Management Association and the American Society of Mechanical Engineers, for industrial leadership in community work—Spurr told business leaders of his long-range and enlightened notion of making money: "The customer must make money first, before we do. So working for our communities and customers is good business."

The program of the utility centers around an organization it founded, called the Upper Monongahela Valley As-

sociation. This association enjoys the support of newspapers, business leaders, and other civic groups, and has been set up to treat the social and economic ills of ten West Virginia counties. These counties had previously been the subject of Federal investigation because of their marginal economic status and only by some slim chance did they escape becoming the basis for a small TVA operation. It was on the basis of narrowly escaping Federal organization that Spurr and his associates became determined to take local steps to improve the community.

SINCE agriculture was the industry which lagged most in modern methods, Spurr started his territorial development department to help UMVA. In this department are employed five ex-county agents and vocational agricultural teachers who direct the Farming for Better Living program. In addition, the staff also includes a conservationist, a farm management counselor, and a forester who work in their fields on a regional basis. They sell only better farming. Some of the accomplishments of the UMVA in the field of improving agricultural conditions can best be shown by listing some of their activities:

1. A sound and movie truck traveled 190,000 miles and showed good farming films to 200,000.
2. The UMVA promoted a potato marketing co-op, joining the growers under the name "Upper Ten," and packing in uniform, brand-named sacks. This activity alone increased the demand more than 700 per cent, and the farmers got 30 to 40 cents more a bushel.
3. This "Upper Ten" idea was likewise applied to buckwheat flour mills.

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This campaign has culminated in the annual buckwheat festival with queen and a feast of country sausage and Preston county maple syrup.

4. A strawberry festival and strawberry promotion resulted from similar activities in an area especially suited to strawberry production.

UMVA and other local groups prevailed on the Carnation milk people to come into the area. In view of this, substandard milk-producing conditions are being improved by the association through its long-range program of improving the quality of the dairy herds. The 10-county program has now expanded to 25 counties and about 2,000 families are constantly encouraged to practice the improvement program on their individual farms. Progressive farming suggestions have been incorporated in a 36-page booklet which reaches these families. The last half of the booklet is devoted to a questionnaire quizzing the

farmers on various improvements which they may or may not have made. Prizes for the best questionnaire are then awarded at regional banquets where the most progressive farmers are honored.

The power company's staff of ex-county agents all carry cameras and write news stories; these stories are readily accepted by the local newspapers so that the papers carry an unusual amount of farm publicity. The power company meter readers also distribute a monthly paper, *Farm Chats*, which is three-fourths pictures and accounts of good farm enterprises. It also may tell how to wire a barn or build an electrical pig brooder.

Spurr describes the program as "development" when he says: "Don't think of all this work as public relations. It's development. But you're bound to get a by-product of good public relations. A power company might even get out of the public doghouse some day, though everybody knows that's asking a lot!"

—D. T. B.

The Story of Big Creek

THE biographies of men of note and accomplishment, on the American scene, are common in our literature. As to great business undertakings, and large and difficult engineering enterprises, which have contributed so much to the American way of life, however, it would seem that they have been thus chronicled with relative infrequency.

This seems to be true of the electric power industry, as evidenced, for example, in the hydroelectric installations built by private enterprise in various sections of this country. We tend to overlook them in the lush and largely free publicity accorded to government ventures. Yet some of the original private company projects were started years ago, and the capacity of the developments quietly added to from time to time, in order to meet the ever-increasing demand for electric service.

An account of such an undertaking has recently been published in *The Story of Big Creek*. This was a pioneer hydro

project of the Southern California Edison Company, and its predecessors, in the High Sierra of central California. The author is David H. Redinger, the resident engineer, who was intimately associated with the continuing construction activities of this great hydro enterprise, over a long period of years.

It is an intriguing recital of the imagination and courage characteristic of American enterprise. Through its pages, the vital part played by the investment of venture capital risked by individuals—in enterprises headed by practical men of vision—clearly emerges.

THE foreword, by W. C. Mullendore, president of the Southern California Edison Company, suggests why the book is, in fact, a "biography" of one of this country's outstanding hydroelectric developments. He states:

This is a biography of a great engineering project, written by David H.



WHAT OTHERS THINK



"THE WATER COMPANY'S COLLECTION DEPARTMENT CERTAINLY IS PERSISTENT ABOUT THE BOSS' UNPAID BILL!"

Redinger, resident engineer, whose life and career were built into the Big Creek hydroelectric project. This story was not written for publication as a book, but rather as a report and history for the records of Southern California Edison Company. It has seemed to us, however, that it is a document of too great significance to be buried in the archives of our company.

What is its significance? It is an outstanding story of the golden age of American development. Here again is a stirring and inspiring example of the work of free men, self-reliant men, men who did not wait to have society or government underwrite the risk.

Today, Americans perform equally

great miracles of construction but too often we turn to "government" to underwrite the risk, parroting a stultifying statement to the effect that the undertaking is "too big for private enterprise."

This is a story of the older America—a brilliant example of the courage and vision of men who never thought of asking government to underwrite their risk because it was "too big" for them as private citizens.

From the earliest conception of the project of John Eastwood, through the building of a railroad into the High Sierra in 157 days, to unprecedented road building, tunneling, dam building, "snowed-in" construction camps

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at high altitudes, and similar unsung exploits, this is a story not of "heroic" men but of just straight-thinking, hard-working Americans of the old school.

THE book has 182 pages of text—with additional pages of descriptive illustrations. The preface outlines the scope of the project as noted in the following excerpts:

In 1911 the Pacific Light & Power Corporation undertook one of the greatest water-power developments in the world—the Big Creek-San Joaquin project in the High Sierra of central California. . . .

This tremendous development, which was brought to its present stage of completion in 1929 by the Southern California Edison Company, which absorbed Pacific Light & Power Corporation in 1917, is situated in Fresno county, about sixty miles northeast of the city of Fresno and approximately 270 miles from Los Angeles. It is a composite of three major artificial lakes created by the construction of six dams, eight tunnels—the longest the 13.5-mile Ward tunnel—and a series of five powerhouses whose 16 units utilize the water from a drainage area of approximately 1,050 square miles. . . .

The key project of the development of the Big Creek-San Joaquin hydroelectric power resources was the construction of Ward tunnel . . . between Florence and Huntington lakes. The installation of additional units in powerhouses No. 1 and No. 2 and the construction of No. 3 and No. 8 necessitated the utilization of water that was available in large volume in the upper drainage areas of the South Fork of the San Joaquin river. This drainage area, however, was separated from the Huntington Lake reservoir area by Kaiser Ridge, a barrier of solid granite nearly eleven miles in width and reaching an elevation of 9,300 feet. The drainage area beyond the barrier was tapped by the construction of Ward tunnel through Kaiser Ridge.

The tunnel is 15 feet in width, 15 feet high, and is built on a mean grade of 17.2 feet per mile. . . .

The creation of this vast water-power development has brought many benefits to central and southern California. As a source of electricity, it supplies 428,000 kilowatts of the Edison Company's combined hydroelectric and fuel-electric generating capacity of 1,582,855 kilowatts.

It further acts as a water conservation and flood prevention measure. The water that makes the electricity eventually is used for irrigation of the great San Joaquin valley, the largest agricultural region in California. The development program likewise opened to the public, through the construction of numerous roads, a vast mountain playground otherwise virtually inaccessible.

THE story of Big Creek is told by Redinger in a running account of the progress of the construction of the project in its various successive stages. Special engineering features are naturally stressed. But one also finds a number of human interest items involving key figures among the thousands of men, scattered over a large area, who were employed for several years on the project.

One such factor was the amount of hand labor which had to be done, in contrast with the availability nowadays of so much earth-moving and other motorized construction equipment. Despite such early handicaps, not only had the men who conceived and directed this venture the courage of their convictions, but the bosses and workmen willingly tackled jobs which, with the tools and equipment then in use, might well strike a modern engineer as hopelessly difficult.

Again, there was the necessity of providing housing and food for thousands of men, whose work was carried on far from any established base of supplies.

Transportation was one of the first facilities to be provided, so as to bring into this high, isolated mountain region, materials and supplies of all kinds, as well as people. A 56-mile, standard gauge rail-

WHAT OTHERS THINK

road (connecting with a main line in the valley) was built to the headquarters community, set up for the project, at Big Creek in the High Sierra. The trains carrying supplies from the valley climbed steadily to their destination, negotiating 1,100 curves en route. A ride over this railroad afforded plenty of thrills, well recalled by this writer, who visited, in 1925, the Big Creek project.

Roads for mule teams—later for automobile travel—were blasted out of solid granite, to reach outlying construction camps. And, in winter, when mountain snows were deep, a crack team of trained dogs and their driver—brought from Alaska—took medicine, mail, and light supplies over Kaiser Pass by sled, to a construction camp beyond the divide. One chapter of this story is devoted to these capable, intelligent animals and the man—a very real person—who drove and cared for them.

Quick and dependable communication between headquarters and the numerous outlying construction camps was most important. To provide 24-hour service, a radio system was installed. In addition, there were private telephone and telegraph facilities to the Edison Company's offices in Los Angeles.

A VIVID description of the construction of the 13½-mile Ward tunnel, the key project of the development, fills a chapter. This great bore was driven through the tough granite of Kaiser Pass, to carry water from the east side of the divide to the west side—putting it to beneficial use in this great hydro system.

The author comments upon the many construction difficulties met and solved on this underground job. He mentions also that men working in a tunnel have to eat at mealtime, just as well as those on surface jobs. In the following paragraph Mr. Redinger tells how "dining car" service was provided for tunnel workmen:

As the Florence Lake tunnel headings in the longer sections progressed, they were so far underground that it was impracticable to transport the men in and out for meals. To do so would have taken about two hours for a 3- to 6-mile round trip. For the midshift meal, a unique dining car service was established, which took the food to the men and served it near the heading. These trains consisted of five electric-lighted flat cars—three equipped with tables and benches, the other two with racks holding the food in hot containers. Help from the mess hall served as if it were a regular dining room. One of those underground meals was a novel experience, and I do not recall ever hearing a complaint. It was very much more comfortable inside than out, cool in summer and warm in winter.

The author has developed his story so as to bring out the varied factors which enter into the construction job. Thus the reader gets a clear picture of the many sided ramifications and the vast scope of the undertaking. In addition, the passages referring to "men on the job" add to the readability and entertainment of the story.

Gas Promotion in 1950

THE American Gas Association will continue a policy of long-range planning of its promotion and advertising schedules, in order to better enable its utility companies, manufacturing companies, and dealer members to coordinate their sales as was done with outstanding success in 1949. Promotion plans for 1950 were to be outlined on a nation-wide

basis in seven regional sales meetings held in various parts of the country during late February and early March. These meetings, which were sponsored by the residential section of AGA, were to be held in Boston, St. Louis, Pittsburgh, Houston, and Milwaukee. A New York meeting and a second southern meeting in Birmingham, Alabama, would complete

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the schedule for the early months of 1950.

At each meeting there was to be a complete presentation of the year's promotional plans. Sales executives attending would be given a presentation of the AGA 1950 sales promotion calendar published by the AGA Promotion Bureau, which lists for each month the sales promotional activities scheduled throughout the year. A schedule of AGA national advertising is also shown on the calendar. With this reference in hand it is hoped that the utilities and the dealers will coordinate their own advertising campaigns to coincide with the national program to maximum effectiveness.

The first part of the 1950 program, which was to run through January and February, was designated "clean up and size 'em up" months. New devices such as the automatic gas laundry dryer, 1950 gas refrigerator, gas house heating, air conditioning, and incineration devices were to be featured and promoted. The second phase of this year's program will center around the Easter Parade and will be entitled "The Spring Style Show." The new styles and facts on modern gas ranges will be launched in an atmosphere of new hat styles and spring clothes. Individual utilities will be urged to stage local style shows, either individually or in conjunction with local dealers.

Restrictions on Gas House Heating Lifted in Many Areas

Gas utility companies in the United States serving approximately 3,000,000 customers lifted gas house-heating restrictions in the period between June 30, 1948, and May 1, 1949, H. Carl Wolf, managing director, American Gas Association reported sometime ago. As a result of easing of the bans, caused principally by shortages of steel and other vital materials in the postwar years, the gas industry during the 1949-50 season expects to add more than 693,000 residential gas house-heating customers to the 6,600,000 families now using gas for space and central house heating.

The association's bureau of statistics recently completed a national survey of gas utility companies serving 19,750,000 residential customers, equivalent to 94 per cent of all gas utility customers in this country, Mr. Wolf reported. Also surveyed were gas companies serving 255,000 Canadian customers. These Canadian gas utility companies expected to add more than 5,400 new gas house-heating customers this winter.

The survey shows that as of May 1, 1949, approximately 9,350,000 of the total of 19,750,000 studied residential

gas customers in the United States were not subject to any house-heating restrictions. It was expected that restrictions covering an additional 1,300,000 customers would be lifted before the end of 1949, leaving approximately 9,100,000 customers still subject to some form of restrictions at the beginning of 1950. This latter group of customers includes 2,800,000 customers supplied by natural gas companies, 4,800,000 by manufactured gas companies, 1,400,000 by mixed gas companies, and the remainder by liquefied petroleum gas companies. A considerable number of this last group expect to lift restrictions in whole or in part during the first half of 1950.

The largest group of customers still affected by partial or complete restrictions is within the manufactured and mixed gas territory, Mr. Wolf pointed out. A large part of the tremendous expansion of our natural gas pipe-line systems that is now under way is directed toward bringing natural gas to these areas.

Availability of natural gas in these territories will go a long way toward ending all restrictions on gas house heating.

The March of Events

In General

Coal Industry Not Sick

THE soft coal industry of the United States is not "sick," but does need some aid from government, the union, and consumers, according to George H. Love, president of the Pittsburgh Consolidation Coal Company.

In a recent announcement of the company's advance in coal prices at the mine, Mr. Love said the coal industry can continue "as a modern progressive industry under a free enterprise system," but certain outside aid is mandatory.

Government assistance that would be beneficial, Mr. Love said, would be to give the coal industry the same tax deletion allowance the natural gas and oil industries now get; curb dumping of foreign oil in the nation's coal markets; and enforce the Taft-Hartley Act.

The miners' union, he declared, must carry out its contract in good faith; continue coöperation with the industry to produce more tons per man; and limit future demands to those which will actually benefit the miners in total earnings.

Customer obligations, Mr. Love continued, are to buy coal as cheaply as possible, value considered; avoid exploiting the industry; and limit purchases to those producers who are in business "to make coal mining a better industry throughout the years," not just for a day.

TVA Personnel Drops

PERSONNEL of the Tennessee Valley Authority totaled 12,342 in January as compared with 12,864 in December—a decline of 522, according to a report of the Joint (Byrd) Committee on Reduction of Nonessential Federal Expendi-



tures. Other agency personnel declines reported by the committee included: Federal Communications Commission, Federal Power Commission, and the Securities and Exchange Commission, seven each.

Bus Lines Fight Traffic Drop

INTERCITY bus operators, confronted with rising costs and falling traffic, are readying new services designed to attract greater patronage and at the same time bring expenditures to lower levels. Bus travel in 1949 dropped 9 per cent from 1948's 23.6 billion revenue passenger miles, and the trend has continued downward during the first quarter of 1950.

To check the decline, and, it is hoped, draw more patrons, the big operators—among them Greyhound, National Trailways, and American Bus Lines, Inc.—plan the elimination of bus stops and changes on the longer runs, and food facilities aboard many of the larger vehicles.

Bus operators do not feel that they are losing patronage to either the railways or the airlines, but attribute the decline to the increasing numbers of automobiles available to individual travelers. Perhaps, they say, the elimination of stops and the shortening of schedules, especially on the longer runs, will regain some of the traffic lost to private autos.

One innovation to speed service is the installation of snack bars on the busses on the long runs. The idea is to cut the stops necessary to let passengers eat. American Bus Lines, Inc., has equipped 10 of its 24 busses on the New York-St.

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Louis, and New York-Chicago runs with snack bars costing about \$2,500 each. Passengers are charged \$1.50 extra for the privilege of riding these busses, and can get coffee and sandwiches from a steward for the price of the food.

The bar takes the space for four passengers on a 37-passenger bus, and the steward's salary cuts into revenue, but, according to American's Vice President John B. Tigrett, the service more than supports itself. He recently said the snack bars have upped travel on the two routes nearly 60 per cent.

Two of the major lines are studying new types of vehicles to attract more passengers. They plan new "deck-and-a-half" busses with a stepped-up rear deck giving an unobstructed view of the road, similar to the vista dome railroad coach.

Rising costs are besetting the bus operators. More costly are drivers' wages, busses, parts, license fees, bridge tolls, mileage taxes, and labor of all types. Efforts to offset these increased costs include the renting of wiping cloths instead of buying them, selling waste paper ac-

cumulated at the larger garages and terminals, and replacing door tenders with electric eyes.

Cities Adopt FEPC

EIGHT cities — Chicago, Minneapolis, Philadelphia, Cleveland, Milwaukee, Cincinnati, Richmond (California), and Phoenix (Arizona)—now have fair employment practices laws, but with some variations. Cleveland, Chicago, Minneapolis, and Philadelphia have ordinances that require both public and private employers to hire workers on the basis of qualifications for the job, regardless of race, color, religion, or national origin.

Fair employment practice acts in Milwaukee, Phoenix, and Richmond apply only to city governments and their contract or franchise holders, while the Cincinnati law applies to city employees only.

In the meanwhile, there are indications that a House-passed FEPC law faces lengthy filibuster and ultimate defeat in the United States Senate.

California

Government Refused Rate Rehearing

THE state public utilities commission recently denied a Federal government request to reopen its case against the Pacific Gas and Electric Company for lower rates on power furnished to Federal facilities. The commission previously had decided the case in favor of the utility company.

Reopening of the case would lead to confusion, the commission said in denying the government's request, adding that the government will have to pay

the same price as the average consumer for power furnished to 24 Federal facilities in northern California.

The government asked that PG&E be required to carry Federal power from such publicly owned production plants as Shasta dam to Navy Yards, Army camps, and other Federal installations for a service charge only.

Under the ruling refusing the government's original request, PG&E continued to buy power from the United States Bureau of Reclamation at Shasta dam and resell it at higher rates to other Federal installations.

Illinois

Rate Review Welcomed

PEOPLES GAS LIGHT & COKE COMPANY welcomes the sweeping review of its

rate structure recently ordered by the state, according to Board Chairman James F. Oates, Jr., who said the company believes the review to be "timely."

THE MARCH OF EVENTS

He added that the company had been faced with sizable increases in wages and costs of materials. The company, he said, anticipated the price to be paid for additional gas from a new pipeline in 1951 will be more than double the cost of natural gas now being purchased.

The state's order arose out of recent hearings on the company's pending request for a 30 per cent increase in rates to industrial and commercial consumers

who buy gas on an interruptible basis. The city of Chicago in February asked leave to intervene in that proceeding and recommended an investigation of the company's rate structure as part of it. The state regulatory body agreed a probe was needed, but on a much broader scale, denying the city's request to enter the interruptible case, but specifying that it has a right to become a party to the new one.

Indiana

Record Year for IP&L

THE recently published annual report of the Indianapolis Power & Light Company revealed 1949 to have been the largest year in the company's history. Customer consumption of power jumped 51,000,000 kilowatt hours to reach an all-time high of 1,176,990,000, while income rose \$1,300,000.

During the year, the utility spent \$12,000,000 on additions and improvements as part of its \$53,800,000 program planned for the six years 1947-52, inclusive. Completed was the first 40,000-kilowatt unit at its new White river plant; also, work was carried forward on the second unit, which will go into production during May.

Kentucky

Rural Co-op Rates Hiked

THE public service commission has granted the Henderson-Union Rural Electric Coöperative a rate increase estimated to yield \$31,200 a year. More

than half of the revenue gain will come from a raise in the minimum monthly charge from \$2.75 to \$3. The coöperative's 5,500 membership is spread over Henderson, Union, Webster, Crittenden, Caldwell, Hopkins, and Lyon counties.

Louisiana

UGC Expansion Announced

UNITED GAS companies, of Shreveport, has announced through N. C. McGowen, president, a 1950 program that will call for the expenditure of approximately \$36,000,000 for expansion and improvement of facilities in the Gulf coast states.

The announcement stated that the planned extensions will bring natural gas facilities to approximately 34,000 consumers that have been without the service. A total of \$7,500,000 of the expansion fund will be used to bring natural gas to cities now without it.

United Gas Pipe Line Company will get \$22,000,000 of the total.

Maryland

BTC Adds Four to Board

THE Baltimore Transit Company has voted to add four prominent busi-

ness and professional men to its board of directors. A. B. Haneke, president of the company has announced that all four have accepted invitations to serve.

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The new members, who will take office the latter part of this month, are: Clarence E. Elderkin, executive vice president and treasurer, Consolidated Engineering Company, Inc.; John C.

Legg, Jr., partner, John C. Legg & Company; John T. Menzies, president, Crosse & Blackwell; and Hooper S. Miles, chairman of the board of directors, Baltimore National Bank.

Michigan

Approve Sale of Municipal Plant

By a vote of 650 to 256, residents of Blissfield have approved sale of the village electric plant and distribution system to Consumers Power Company for \$250,000, at the same time granting Consumers a franchise to supply service in the village. Vote on the franchise was 656 for, 257 against, the largest vote ever recorded in Blissfield.

The company plans to take over the village electric plant some time prior to May 15th. It will be retired from service and the village supplied from the company's statewide network of transmission lines, which passes two miles south of Blissfield. Work on a new substation is expected to begin the latter part of this month.

Rate Boost Upheld

A \$13,080,000 rate increase granted the Detroit Edison Company in January, 1949, has been upheld by Circuit Judge Marvin J. Salmon.

The city of Detroit had protested that the public service commission erred legally in authorizing the rate schedules.

Objections, Judge Salmon explained, were based on contentions that the increase was excessive; the January order was an unlawful attempt to validate retroactively a temporary raise granted last July; the commission's staff had supplied information relative to electric operating expenses as distinct from steam and gas operations; and that the electric department had been charged with all the company's welfare and pension fund.

Montana

MPC Gets Federal Power

SECRETARY of Interior Oscar L. Chapman has approved execution of a contract between the Bonneville Power Administration and the Montana Power Company for purchase by the latter of up to 50,000 kilowatts of power from the Hungry Horse development. The contract was executed in Portland, Oregon, March 18th, by Bonneville Power Ad-

ministrator Paul J. Raver and F. W. Bird, president and general manager, Montana Power Company, of Butte. Basic rate will be \$17.50 a kilowatt year.

First deliveries of Hungry Horse power to the company west of the continental divide up to 50,000 kilowatts are expected to start in the fall of 1952, with substantial increases in the amount by the fall of the next and succeeding years.

New York

To Fight a St. Lawrence "TVA"

IT has been stated by a spokesman for Governor Thomas E. Dewey that the New York State Power Authority will stage an all-out fight to prevent the government from establishing a Tennessee Valley Authority-type development on

the St. Lawrence and Niagara rivers. The statement was made simultaneously with the announcement of the appointment of three of the governor's top advisers as members of the State Power Authority.

Those appointed were John E. Burton, state budget director; Elliott V. Bell,

THE MARCH OF EVENTS

chairman of the executive committee of the McGraw-Hill Publishing Company; and Hickman Powell, free-lance magazine writer, who has been a close political adviser of the governor for several years.

Commenting further on the appointments, the spokesman declared: "These appointments are the start of a full-fledged fight to prevent the Federal government from encroaching on power resources which belong to the people of New York state.

"We think that the people of New York state should have the power derived from the St. Lawrence and Niagara rivers. We will do everything we can to stop a little TVA in New York state."

He also said the appointments meant a "relentless" fight by the Dewey administration to compel President Truman to sign the state's application for the right to develop the two rivers' water-power potentialities for the benefit of the people of the state.

South Carolina

Merger Gets Approval

THE South Carolina Public Service Commission has issued an order approving a merger of the South Carolina Electric & Gas Company and its subsidiary, the South Carolina Power Company, of Charleston. The order included

a proviso that both companies would have to continue their present rates to consumers until the commission allowed them to raise rates. The merger, according to officials of SCE&G, was designed to permit a program of expansion and improvements.

Virginia

Sign New Employment Contract

THE Virginia Electric & Power Company and representatives of the International Brotherhood of Electrical Workers recently signed a contract granting a 4 per cent wage increase to about 2,500 company employees, effective April 1st.

Negotiations on the new contract never passed the first conference stage under the Virginia Public Utilities Labor Relations Act. Thus, terms were reached

without negotiations wandering through all phases of the state law's process as they did a year ago when the union threatened a strike and the governor had prepared to seize the company before final agreement was reached.

In addition to the 4 per cent pay raise, the new contract provides six paid holidays a year to shift and nonshift employees; two days off for employees in event of death in their immediate families; and two-week pay periods.

Wisconsin

Voluntary Gas Rate Reduction

THE Madison Gas & Electric Company voluntarily cut its natural gas rates $9\frac{1}{2}$ per cent, effective March 20th. The cut was submitted to the public service commission, which gave immediate approval.

The company estimated the reduction

would save consumers \$150,000 a year. This reduction follows almost on the heels of a 16 per cent reduction made early in January when the company completed its natural gas installations.

Total annual savings to consumers, with the latest rate cut included, will come to \$408,000, the company said.



Progress of Regulation

Accrued Depreciation Distinguished from Reserve

THE New York Court of Appeals reversed the decision of the appellate division, reported in 80 PUR NS 521, which overturned an order of the commission fixing temporary rates. The higher court took the position that the commission was not deprived of power to make a temporary rate order even though hearings on the rate investigation had been closed.

The opinion of the court of appeals deals mainly with the question whether the commission could estimate accrued depreciation for the purpose of temporary rate making instead of accepting the amount shown on the company's book as representing accrued depreciation. The court decided that accrued depreciation

is not synonymous with reserves accumulated to provide for the retirement or replacement of property.

It challenges reason, said the court, to suppose that the legislature purposefully required that the commission accept "willy-nilly" the company's figures on depreciation regardless of how incorrect or inaccurate they may be. Depreciation reserve, the court continued, unquestionably constitutes some evidence of accrued depreciation, but this presumption is not made conclusive. The commission need not "blind itself" to the fact that the reserve accumulated upon the company's books does not show the accrued depreciation. *Consolidated Edison Co. of New York, Inc. v. Maltbie et al.* 90 NE2d35.



Entire Charge for Pensions Recognized by New York Commission As an Operating Expense

THE New York commission has expressly overruled its decision in *Re Lake Placid* (1949) 78 PUR NS 386 that the cost of pensions for past services should not be allowed as a current operating expense. Now the commission, with one commissioner dissenting, takes the view that pensions are wages and constitute a present benefit. The entire charge, whether based on past or future services, becomes an operating expense, not an income deduction or a charge to surplus.

Certain fundamental principles are stated in connection with this decision:

First: A company claiming the deduction as an operating expense must have

irrevocably committed itself to the obligation. Title must have passed to the beneficiaries.

Second: The pension plan must be a reasonable one. If pensions are wages, pensions are a matter of collective bargaining between the company and its men, over which the commission has no control; but, as in the case of other operating expenses, unreasonable payments may be disallowed by the commission.

Third: Inclusion in operating expenses should be made in the year when provision should be made for it.

Fourth: Where companies have undertaken to pay pensions, even if the plan

PROGRESS OF REGULATION

be styled a so-called voluntary plan under which the company may claim it has no legal liability, there exists a high moral responsibility and, as a practical matter, a voluntary plan of long standing cannot be terminated without destroying good labor relations or by compensating the employees in some other form.

The commission quoted from a report of the Committee on Accounting Procedure of the American Institute of Accountants dealing with accounting for annuity costs based on past services, where it was said that even though the calculation is based on past services, cost of annuities based on such services are generally incurred in contemplation of present and future services, not necessarily of the individual affected but of the organization as a whole and, therefore, should be charged to the present and future periods benefited. This belief is based on the assumption that although

the benefits flowing from pension plans are intangible, they are nevertheless real. It is expected that such benefits will include better employee morale, removal of superannuated employees from the payroll, and attraction and retention of more desirable personnel, all of which should result in improved operations.

Commissioner Eddy, delivering the majority opinion, said he was in accord with Commissioner Arkwright, dissenting, to the extent that any increase in operating expenses tends toward an increase in rates. However, he said, if the commission is correct in its view that pensions are a form of wages, and if in the course of collective bargaining employees desire a pension rather than benefits in pay, the granting of pensions in any form will produce no different rates than those that would be produced by an equivalent change in wages. *Re Uniform System of Accounts, Case 9187 et al.*



Commission Lacks Power to Limit Payment to Parent Telephone Company

ALTHOUGH a regulatory commission has power to exclude from operating expenses in a rate proceeding excessive amounts paid to a parent company, it does not have power, according to the California Supreme Court, to limit payments to the parent company. The commission does not have power to prescribe the terms of contract and the practices of utilities and thus substitute its judgment as to what is reasonable for that of the management.

The California commission, in *Re Pacific Teleph. & Teleg. Co.* (1949) 77 PUR NS 129, had ordered that payments to the American Telephone and Telegraph Company should be limited to the reasonable cost or reasonable value of services, whichever is less. The commission fixed what is considered to be a proper allowance. The commission also, in *Re Pacific Teleph. & Teleg. Co.* (1949) 78 PUR NS 491, made a similar order as a condition of authorizing a rate increase. The court reversed the decision in the first case mentioned and reversed that

part of the order relating to limitation of payments in the second case.

Some state legislatures, the court observed, have enacted statutes specifically granting to commissions power to regulate payments under contracts with related companies. Such powers have been granted to the Securities and Exchange Commission by the Holding Company Act. California has not expressly granted such power to the commission.

The court overruled contentions that jurisdiction might be implied from provisions empowering the commission to prescribe uniform systems of accounts, statutes relating to approval of security issues and the use of funds raised by security issues, and statutes granting powers over rate and service regulations.

There was said to be no basis for such broad jurisdiction in the principles governing the disregard of a corporate entity. The commission was not disregarding completely the separate entities of the operating company and the parent company. It did not seek to exercise regu-

PUBLIC UTILITIES FORTNIGHTLY

latory jurisdiction directly over American Telephone and Telegraph Company. It recognized that the parent company provided the subsidiary with valuable services for which the subsidiary should pay. It would disregard only the terms

of the contract by which it was determined how much should be paid, and thus substitute its judgment for that of the management. *Pacific Teleph. & Teleg. Co. v. Public Utilities Commission of California.*



Court Reversing Rate Order Must Send Proceeding Back to Commission

THE supreme court of Alabama upheld the action of a lower court in setting aside a commission order disapproving proposed telephone rates. It did modify the decree, however, so as to remand the case to the commission for further proceedings. It was pointed out that rate making is a legislative rather than a judicial function. If the case were allowed to end with the order of the lower court, that order, although setting aside the commission order, would necessarily constitute an approval of and, therefore, a fixing of the rates sought to be established by the company. The supreme court believed this would be a usurpation of the commission's prerogative.

The court, in passing on the reasonableness of return to be allowed the company, stated that it must be equal to that generally being earned by others in the same general locality in business undertakings attended by corresponding risks and uncertainties. It must also be sufficient to assure the investor's confidence in the financial soundness of the enterprise and to maintain the company's credit so that it will be able to raise the money necessary to improve and expand its service pursuant to public demand.

Large quantities of additional capital were required for plant expansion. This capital must be raised in the money markets in competition with other seekers of expansion capital, currently earning at high levels. In such competitive money markets the investor must be induced, the court said.

Over and above reasonable dividend disbursements, some earnings must be retained in the surplus account to give assurance to the investor that dividends

will be maintained. Earnings barely sufficient to meet current interest and dividend requirements were deemed to be insufficient for a fair return and to permit the attraction of capital. The commission had held that the company's earnings were adequate if they were sufficient to provide only for bare interest and reasonable dividends on stock, with nothing being passed to surplus to provide for future contingencies. The court ruled that this allowance, amounting to 4.5 per cent, was confiscatory. Furthermore, it was held to be arbitrary and unsupported by the evidence.

The commission was held to have improperly disallowed certain charges as operating expenses. License contract fees paid by the company to its parent company should have been allowed as a proper operating charge. The actual cost incurred by the parent telephone company in rendering services under the license contract exceeded the payments received from the operating company. Evidence indicated that the benefits received by the operating company through these services were far more valuable than the amount paid for them. There was no duplication between the functions of the company and the parent company. Services rendered under the contract were necessary and could not be obtained anywhere else at as low a cost.

Other operating charges, such as lunchroom expense, pension costs, rearrangements and changes expense, and local commercial operation charges, were held to have been improperly disallowed by the commission. The court cited numerous authorities holding that it is illegal for the commission to disallow or reduce op-

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PROGRESS OF REGULATION

erating expenses in the absence of a showing of mismanagement, bad faith, waste, extravagance, or fraud. Testimony indicated that the company had acted rea-

sonably in making the expenditures. *Alabama Pub. Service Commission v. Southern Bell Teleph. & Teleg. Co.* 42 S2d 655.



Ruling against Estimate of Bill after Rate Increase Is Reversed

THE appellate term, first department, of the New York Supreme Court reversed the decision of a New York city court (referred to in PUBLIC UTILITIES FORTNIGHTLY, issue of September 29, 1949, at page 455) on the ground that the court had illegally attempted to decide a question within the jurisdiction of the state commission. The lower court had awarded damages to a gas customer who had been charged for gas on the basis of an estimate of consumption between the date of a rate increase and the next meter reading.

The company in a letter to the commission when transmitting a revised gas rate schedule had explained its method of prorating regular bills to avoid the excessively burdensome procedure that would be involved in prorating bills on the basis of the actual number of days covered by a bill. It was obviously impossible to read meters of all customers on the effective date of the rate increase.

The appellate court found nothing in the Public Service Law which prohibits a public utility company from prescribing methods, practices, and regulations re-

quired for the proper conduct of its business and found necessary for its efficient administration, nor did it find any provision requiring approval of the commission in the first instance to render such methods, practices, and regulations valid and effective. It was said that in the absence of statutory or judicial prohibition, a public utility has the right to prescribe and adopt reasonable practices and regulations. The commission may examine them and take action if necessary.

Even assuming that the gas company had used an improper proration formula, the appellate court continued, the reasonableness of rates, rules, or practices is a question to be determined in the first instance by the commission. This is a rule of primary administrative jurisdiction, and in such cases preliminary resort to the commission is required in the first instance and not to the court. Therefore the complaint against the charges should have been dismissed. *Cardone v. Consolidated Edison Co. of New York, Inc.* (94 NYS2d 94, reversing *Cardone v. Consolidated Edison Co. of New York, Inc.* 89 NYS2d 845).



Coöperative Association Held to Be Public Utility

THE supreme court of Arizona held that a coöperative association organized to buy and supply natural gas and residual products to its members was a public service corporation subject to the commission's jurisdiction. Consequently, it was required to secure a certificate before buying natural gas from a licensed public service corporation. The association's articles and bylaws relating to membership required only that members be accepted by the board of directors.

Whether a corporation is a public serv-

ice corporation subject to the commission's jurisdiction and required to obtain a certificate before buying gas from a licensed public utility for use of its members should be determined by what the company's articles and bylaws authorize it to do, rather than by what is being done or by what the company might do in the immediate future, the court held. Although the company's bylaws provide that it will sell gas only to its members, its membership may include any person, firm, or body politic throughout the entire

PUBLIC UTILITIES FORTNIGHTLY

Southwest, provided only that they be accepted by the board of directors. *Nat-*

ural Gas Service Co. et al. v. Serv-Yu Cooperative, Inc. 213 P2d 677.



Question of Limiting Preemptive Rights to Be Submitted to Stockholders

OVER the objection of a common stockholder of the Columbia Gas System, Inc., the Securities and Exchange Commission permitted the company to submit to its stockholders a proposal to limit the present preemptive rights of common stockholders by amendment of the certificate of incorporation. This would permit the sale for cash of shares of common stock by a public offering or an offering to or through underwriters or investment bankers who agree to make a public offering without being required to offer the shares first to the company common stockholders.

The objecting stockholder argued that the proposed change would take away a vested right which the stockholder now has by contract, that the Holding Company Act imposes a duty to require as a matter of policy that strict preemptive rights be accorded stockholders, and that the proposal in any event is not a proper one for submission to stockholders since they cannot be depended on to exercise an intelligent judgment in voting upon the issue even though furnished with adequate information.

He did not argue that stockholders might not under the present charter provisions give up or, as was proposed, alter the preemptive rights possessed. The only questions were, therefore, whether the Holding Company Act requires a policy of strict preemptive rights regardless of stockholders' desires indicated by a proper vote or whether it permits some lesser privilege and, if the latter, whether the proposal under consideration would be a proper one for submission to stockholders. The commission concluded:

We believe that the company's proposal may properly be submitted to stockholders. However, our action in permitting the declaration herein to become effective should not be construed

as changing in any way our view that common stockholders should normally have the opportunity to buy whatever additional shares of common stock are offered by their corporations. It is, and has long been, our opinion that when holding companies and public utility companies subject to our jurisdiction sell additional shares of common stock, their own interests as well as the interests of their common stockholders are, absent special circumstances, best served by allowing common stockholders the right to purchase their proportionate shares of the new issue. It has been our experience that, in so far as the corporation itself is concerned, savings in expenses are made possible by direct sales to its own stockholders, tending to offset, at least in part, the discounts below current market price which are frequently involved in order to make exercise of the rights attractive. Techniques have been developed by Columbia itself, as well as by other corporations, to ensure that at least under favorable market conditions the corporation will have reasonable assurance that a rights offering at a fair price will result in a successful financing. However, there have been and may in the future be situations in which the length of time necessarily required for a preemptive rights offering to stockholders may involve a serious risk of an unsuccessful offering, at a time when funds are urgently needed. The cost of underwriting a preemptive rights offering during unsettled market conditions may be excessive, and the risk of failure without an underwriting dangerous to the financial position of the company. A rigid requirement of preemptive rights in all circumstances leaves no leeway for meeting such problems.

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The company was also permitted to amend the certificate of incorporation to authorize preferred stock. The commission said it should be clearly understood that the commission believes it desirable that the company be in a position to issue such stock if such issuance becomes necessary, but even though the necessary vote of stockholders is obtained, preferred stock can be issued only after a further declaration has been filed with the commission and permitted to become effective.

The commission, in determining the issues presented by such a declaration, would be guided by the standards of § 7(c)(2) of the Holding Company Act, requiring findings that preferred stock is for necessary and urgent corporate purposes, that the issuance of another type of security would impose an unreasonable burden upon the company, and that such issuance meets the other applicable requirements of the act. *Re Columbia Gas System, Inc. (File No. 70-2328, Release No. 9730).*



Telephone Rate Increase Authorized on Revenue Basis To End Controversy

THE New Hampshire commission authorized a telephone company to increase intrastate rates so as to yield approximately \$100,000 more per month. This action was contingent upon the company's putting the increase into effect without a further appeal. All questions of recoupment and amortization of rate case expenses incurred during long drawn-out litigation over higher rates were to be dropped.

The commission sought to strike a balance between the asserted legal rights of the company and the rights of the public, and to establish a proper economic level of telephone rates in New Hampshire. Actual operations under the new rates would furnish both the company and the commission with additional data by which the reasonableness of its conclusions could be tested. It believed that its decision to authorize an increase on a revenue basis, when accepted by the company, would make it unnecessary to make conclusive findings on many controversial issues. For example, there was the question of determining an intrastate rate base, the cost of money, fair rate of return, and proper corporate expenses of intrastate operation.

These questions raised the necessity of determining by some method of separation the portion of plant in New Hampshire subject to the jurisdiction of the commission and devoted to intrastate use as distinguished from interstate use.

It would also be necessary to apportion intrastate plant between exchange and intrastate toll use. The commission was reluctant to apply the procedure of the Separations Manual published by the National Association of Railroad and Utilities Commissioners.

It was considered impossible to reach a definite conclusion as to an appropriate method of separation within a reasonable time. A great amount of expense would be involved in deriving additional data for that purpose. The commission stated that the field was so complicated and so important to both state and Federal regulatory authorities throughout the country that the inquiry should be national in scope rather than undertaken by any one state.

The commission concluded that the company's rates should be higher than those in Maine and Vermont. It pointed out that Maine has two exchanges which are larger and has more telephones in the local calling area than any exchange in New Hampshire. Application of the Maine exchange rates to the New Hampshire exchanges, therefore, would produce revenue per average telephone of about 20 cents per month less than in Maine. It was also considered significant that a larger portion of toll messages within New Hampshire were for shorter distances than in Maine. *Re New England Teleph. & Teleg. Co. (D-R2610, D-R2699).*

PUBLIC UTILITIES FORTNIGHTLY

Other Important Rulings

A MANUFACTURER's complaint against utility rates, and request for the presentation of certain utility records, was dismissed by the Pennsylvania commission because the items requested would require special preparation and could not properly be construed to be "records, books, or papers" which a utility would be required to produce upon proper legal demand. *National Force & Ordnance Co. v. Pennsylvania Electric Co.* (Complaint Docket No. 14495).

The Michigan commission, in authorizing a telephone rate increase in recognition of the company's right to fair and reasonable compensation for services rendered, stated that the company must adopt sufficient means to improve its plant and equipment to render better and more efficient service in order to enjoy a continuance of the increased rate. *Re Nadeau Township Teleph. Co.* (T-579-49.1).

A municipality's complaint against a proposed electric rate was dismissed by

the Pennsylvania commission for failure to set forth any act or thing done or omitted to be done by the utility in violation of the utility law or of any regulation or order of the commission. *Scranton v. Scranton Electric Co.* (Complaint Docket No. 14764).

The New Mexico commission authorized a water company to increase rates so as to yield a return of 6 per cent as a reasonable amount to invite capital investment in the business, at least to the extent necessary to assure adequate and dependable service. *Re Public Service Co. of New Mexico* (Case No. 296).

The Massachusetts Department of Public Utilities denied a railroad's application to discontinue service over several heavily traveled "commuter" lines where it did not appear that every possible alternative remedy for a losing operation had been tried prior to making application. *Re New York, N. H. & H. R. Co.* (DPU 7886).

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Public Utilities Reports (New Series) are published in five bound volumes annually, with an Annual Digest. These Reports contain the cases preprinted in the issues of *PUBLIC UTILITIES FORTNIGHTLY*, as well as additional cases and digests of cases. The volumes are \$7.50 each; the Annual Digest \$6.00. *Public Utilities Reports* also will subsequently contain in full or abstract form cases referred to in the foregoing pages of "Progress of Regulation."

MICHIGAN PUBLIC SERVICE COMMISSION

Re Consumers Power Company

D-2916-50.1, D-2916-50.3
January 4, 1950

APPPLICATION for authority to increase electric rates; company ordered to file new rates. New rates approved as filed, January 12, 1950.

Return, § 9 — Fair value basis — Electric company.

1. A proper rate base for an electric company must be the fair value of its property, p. 104.

Return, § 24 — Reasonableness — Cost of money.

2. The cost of money, a company's financial structure, its construction program, and its need for raising additional capital must be considered in determining a reasonable rate of return, p. 109.

Return, § 87 — Electric company.

3. A return of 5.7 per cent on the fair value of an electric company's property was considered reasonable, p. 109.

Return, § 28 — Attraction of capital.

4. The Commission is not bound to support any price level of an electric company's existing securities, although the revenue requirement necessary to attract capital is an important consideration in a determination of fair rates, p. 110.

Security issues, § 99 — Capitalization ratio.

5. The ratio of an electric company's fixed-charge capital amounting to approximately 70 per cent of the total capital structure must be reduced by the sale of equity capital to more nearly approach the ideal of a 60-40 ratio, p. 110.

Return, § 11 — Original cost basis — Electric company.

Statement, in dissenting opinion, that fair value is original cost, prudent investment, or net investment, p. 112.

Return, § 9 — Fair value basis — Meaning of fair value.

Statement, in dissenting opinion, that fair value is that value which is fair to the investor as representative of the dollars he has placed in the public utility enterprise, p. 115.

Valuation, § 67 — Original cost determination.

Statement, in dissenting opinion, that in adopting an original cost rate base for the purpose of determining rates, the base should normally reflect the average plant in service during the test year rather than the amount at the end of the year, p. 117.

MICHIGAN PUBLIC SERVICE COMMISSION

Return, § 26 — Cost of money.

Statement, in dissenting opinion, that the most important element of a fair return is the cost of money to the company, p. 118.

(McCARHY, Chairman, dissents.)

By the COMMISSION: These proceedings are upon an original petition of Consumers Power Company filed with this Commission on December 30, 1948, asking for authority to amend, revise, adjust, and increase its electric rates on certain of said rates now in effect in order that such proposed charges would produce approximately \$6,600,000 of additional revenue based upon the sales for the 12-month period ended November 30, 1948. This Commission fixed February 15, 1949, as the time for hearing the company's evidence in support of said petition and gave due notice thereof to each interested municipality, township, village, and city in accordance with Rule 24 of this Commission's Rules of Practice.

The company's petition was based substantially upon the claim that the company was earning less than a fair and reasonable return upon the present fair value of its property used and useful in conducting its electric business; that its operating expenses, particularly fuel costs and wages paid employees, have increased and are now increasing out of proportion to its gross revenues; that the return from its electric utility must be sufficient to maintain its credit, assure confidence in the financial integrity of its business, and attract and induce capital investment in its securities; that the inadequacy of petitioner's present electric rates reduces its return below safe, proper, and reasonable levels, and it is unfair and unreasonable to require

petitioner to continue rendering electric service to its customers under present conditions at existing rates; with the result that while confronted with unprecedented demand for its service, the ability to obtain equity funds for new construction is difficult and costly; that the demand for electricity has increased at a more rapid rate than petitioner's construction program with the result that petitioner does not have customary adequate reserve generating, transmission, and distribution capacity to assure continuation of uninterrupted service; that in order to supply the present and anticipated increased demands of the public and to provide a safe operating reserve capacity to assure continuation of uninterrupted service, the company proposed to spend an additional \$40,000,000 on new construction in its electric department for the year 1949; that if the proposed construction program of 1949 is to go forward to completion, it will be necessary to realize approximately \$30,000,000 through the sale of new securities; that it is the judgment of the petitioner that it is to the best interest of the company and its customers that sufficient common stock be sold at not less than the price authorized by the Commission by its order of August 2, 1948, so as to meet such requirement.

Public hearings were held before the Commission from February 15, 1949, to February 18, 1949, both inclusive.

Appearances and interventions were entered by the cities of Grand Rapids,

RE CONSUMERS POWER CO.

Flint, Saginaw, Bay City, Muskegon, Muskegon Heights, Mt. Pleasant, Big Rapids, Charlotte, East Tawas, Three Rivers, Pontiac, Midland, Battle Creek, Harrisville, Ogden, Lake City, Adrian, Manistee, Grandville, and Eaton Rapids, and the villages of Tecumseh, Perry, Fenton, Farwell and Bear Lake, the Gratiot County Board of Supervisors and the township of Lansing, Ingham county, the township of Gustin, Alcona county, the township of Gerrish, Roscommon county, the township of Garfield, Newaygo county, Oakfield township, Kent county, and Harrisville township, Alcona county. All of the aforesaid intervenors attending the hearings participated in the proceedings before this Commission.

The company submitted proofs in support of its petition, both by testimony and by exhibits, all bearing upon elements necessarily required to be submitted and proven in a public utility rate case. During the course of the hearing, the intervenors were permitted full opportunity by this Commission to cross-examine the company's witnesses and to submit testimony and evidence in their own behalf; but, other than clarifying questions to company's witnesses, intervenors reserved the right to cross-examination and submission of proofs until a later date in these proceedings. At the conclusion of the presentation of proofs by the company, the intervenors and the staff of this Commission requested an adjournment for the purpose of examining and analyzing the testimony offered and exhibits tendered by the company before commencing the cross-examination of the company's witnesses. The

adjournment was granted to afford the cities and the Commission staff the opportunity to examine the exhibits, to examine the testimony, to make an independent investigation, and be prepared to come before the Commission at a later date, at a reasonable time, and bring in such evidence as they may see fit, to conduct such cross-examinations as they may see fit, or to present affirmative evidence. Date for further hearing was left to be fixed by direction of the Commission.

Hearings in this matter were resumed on October 26, 1949, and continued hearings were held on October 27, 28, November 2, 3, and 9, 1949. During the course of these hearings testimony was offered by the staff and additional testimony was offered by the petitioner. At the final series of hearings, October 26, 1949, to November 9, 1949, appearances were recorded by the cities of Flint, Grand Rapids, Muskegon, Muskegon Heights, Saginaw, and Grandville. All of the aforesaid intervenors participated in the proceedings before this Commission.

At the hearing on October 26, 1949, Consumers Power Company requested permission to amend its petition of December 30, 1948, to enable petitioner to offer evidence of its actual operations for the first nine months and estimates for the last three months of 1949, and evidence on an estimated basis for the year 1950. After due consideration, the Commission granted said petition in so far as it applied to the scope of the present rate case and denied any portion of the amended petition that applied to consideration of a 1950 forecast.

MICHIGAN PUBLIC SERVICE COMMISSION

Historical Background and General Information

Consumers Power Company is a corporation organized under the laws of the state of Maine on April 14, 1910, and was admitted to do business in the state of Michigan on July 21, 1915. Its principal office is located at 192 Middle street, Portland, Maine, and its executive offices are located at 212 West Michigan avenue, Jackson, Michigan.

Prior to November, 1946, the company was a wholly owned subsidiary of the Commonwealth & Southern Corporation. In November, 1946, the company sold 500,000 shares of common stock to the public. Pursuant to a plan approved by order of the Securities and Exchange Commission, the preferred shareholders of the Commonwealth & Southern Corporation surrendered their stock in that company for shares of Consumers Power Company. The exchange commenced on October 1, 1949, and as of October 27, 1949, the exchange was about 93 per cent complete. The Commonwealth & Southern Corporation has been dissolved and Consumers Power Company is now an independently owned company.

Operating entirely in the state of Michigan, the company is engaged in the generation and purchase of electricity and its distribution and sale in 1,284 communities and townships as well as rural areas. The company is also engaged in the purchase of natural gas and its distribution and sale in 254 communities and townships and the production of liquefied petroleum gas and its distribution and sale in the city of Manistee, the production and sale of steam heating in the cities of Adrian,

Saginaw, Grand Rapids, Kalamazoo, and Battle Creek, and the production and sale of water in Jonesville, Michigan. Based upon the 1940 census, the population of the territory served by all departments is estimated to be in excess of 2,255,000 people. The number of square miles in the electric service area of the company is slightly over 23,000 square miles.

The company, as of August 1, 1949, had a total name-plate generating capacity of 810,000 kilowatts. The peak load in 1948 was 805,430 kilowatts at which time their rated name-plate capacity was 780,465 kilowatts. To serve the demands of customers at that time certain of the generating equipment was operated at overload capacity in order to meet the load conditions.

In 1948, the company completed three generating units, a 50,000-kilowatt steam electric unit in April at the John C. Weadock plant near Bay City and two 60,000-kilowatt steam electric units at the B. C. Cobb plant, one of which came at the very end of the year. The three units added in 1948 total 170,000 kilowatts which added 25 per cent to the company's generating capacity over the year 1947. In 1949 the company proposed to complete the construction of two more 60,000-kilowatt units which will add 19 per cent more to the generating capacity as it stood at the beginning of 1948. The total name-plate rating of the generating facilities of Consumers Power Company at the end of 1949 is expected to be 930,015 kilowatts.

Consumers Power Company also furnishes electric energy to the city of Pontiac completely surrounded by the Detroit Edison Company and purchases all of its requirements for the city of

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Pontiac from the Detroit Edison Company and furnishes the service under the standard rates of the Detroit Edison Company. All Pontiac requirements are purchased under a contract dated April 5, 1943, which is effective until terminated by either party upon twelve-months' written notice.

Consumers Power Company and the Detroit Edison Company executed a new interchange agreement effective as of January 1, 1949, through December 31, 1953, and annually thereafter until terminated by either party, which provides that the company and the Detroit Edison Company will maintain and operate an interconnection near Jackson of 100,000-kilowatt capacity and another 100,000-kilowatt interconnection near Flint for scheduled interchanges of energy and interchange of surplus energy and the transfer of energy during emergency on either system. The use of these interconnections will permit further sharing of reserve capacity of the two systems and thus effect a substantial saving for each company.

Under a contract dated September 24, 1941, Consumers Power Company and the city of Lansing maintain interconnecting facilities of 25,000-kilowatt capacity between the two systems. This contract may be terminated any time by any party upon thirty days' written notice.

Rate History

In connection with this proceeding

petitioner introduced testimony and exhibits showing the history of rates charged by the company for its services in the past. The charts show that starting in 1915 the average rates paid by the customers of Consumers Power Company, generally speaking, declined until 1918; subsequently increases occurred, reaching a peak in 1921, followed by a period of declining rates which extended to the present time. Testimony offered indicated this period of increase was due to World War I which caused an inflationary period and the company sought increases in its general rates until about 1921. During the period from 1921 to 1924 there was a reduction in the average rate paid by residential customers due principally to the increased use of energy. Since 1924 there have been 47 separate reductions in general rate schedules and, of this number, 8 separate reductions have been made in residential service. These reductions were brought about by the company either voluntarily or as a result of conferences with this Commission or its predecessors.

The company's present rates are uniform throughout its entire territory except in two areas. In one area, the city of Bay City, it has municipal competition, while in the other area, the city of Pontiac, rates are by agreement with said city.

Evidence introduced by the company shows the average electric rates as billed for the years 1934 to 1948 inclusive:

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Year	Residential	Commercial Light and Power	Industrial	All Other	Total Company
1934	4.20¢	3.72¢	1.31¢	2.43¢	2.47¢
1935	3.93	3.56	1.23	2.41	2.28
1936	3.47	3.24	1.14	1.97	2.04
1937	3.24	3.13	1.13	2.05	2.01
1938	3.12	3.18	1.26	2.11	2.25
1939	3.01	3.07	1.23	2.14	2.17
1940	2.94	3.01	1.12	2.01	2.01
1941	2.88	2.97	1.07	2.01	1.90
1942	2.86	3.02	1.07	2.07	1.90
1943	2.77	3.04	1.03	2.00	1.73
1944 *	2.71	3.03	1.10	1.91	1.78
1945 *	2.65	3.05	1.18	1.89	1.90
1946	2.59	2.99	1.20	1.72	1.93
1947	2.51	2.68	1.19	1.67	1.82
1948	2.45	2.71	1.26	1.65	1.85

* Disregarding reduction in bills for all classes of service of 75% for month of December, 1944, and 20% for month of December, 1945.

The tabulation included in Exhibit No. 31 of the petitioner is of interest because it shows the average annual revenue per customer, the annual kilowatt hour per customer for residential service for over three to five years from 1920 through 1948 to which we have

added the average rate billed for this service. This tabulation would indicate that the average annual use per customer has had its effect upon the reduction of average rate paid. The tabulation referred to is as follows:

Year	Annual Revenue per Customer	Annual Kw. Hr. per Customer	Average Electric Rate Billed
1920	\$21.31	281	7.65¢
1925	22.40	334	7.00
1930	28.65	578	5.10
1935	28.52	726	4.10
1940	36.35	1238	3.36
1945	43.49*	1640	3.03
1948	50.90	2080	2.45

* Disregarding 20% rebate in December, 1945, bills.

Operating Revenues and Expenses

Gross operating revenues by classes of service were presented by both the staff and the company for the period 1944 to 1949, inclusive. The years 1944 to 1948 contain the results as taken from the company's books, there being no disagreement between the staff and the company on the recorded data. For the year 1949 the staff made an estimate based on seven-months' recorded data and five-months' forecast, while the company's estimates

included eight months recorded and four months forecast.

For the 5-year period, 1944 to 1948, total electric revenues increased from \$45,391,735 to \$68,041,474. For 1949 the company estimated a gross revenue of \$72,088,000 while the staff's estimate was \$73,618,000. The distribution of revenue from sales of electric energy (excluding miscellaneous revenues) by classes of service for the year 1948 is as follows:

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Class of Service	Amount	Per Cent of Total
Residential	\$26,353,232	39.2
Commercial Light & Power	15,116,174	22.5
Industrial	23,573,468	35.1
Street & Highway Lighting	904,550	1.3
Other	1,245,876	1.9
Total	67,193,300	100.0

It may be observed that residential revenue accounted for 39.2 per cent of the total revenue from electric energy while industrial revenue accounted for 35.1 per cent.

The difference between the staff and company estimate of gross revenue for 1949 is approximately \$1,500,000. From the testimony and exhibits introduced into the record, this difference is accounted for primarily by the forecast for industrial sales. It was urged by the company that revenues from this source were abnormally high because of the present intense activity of the automobile industry and that, on a normal basis, revenues from this source could be expected to decline.

There was a close agreement in the estimates for other classes of service and we are of the opinion, from the facts presented, that a gross revenue of \$72,838,000 for the year 1949 represents a fair and reasonable estimate.

Operating expenses were also presented by both the staff and the company by departments for the recorded years 1944 to 1948, inclusive, and a forecast for 1949. Electric operating expenses, exclusive of depreciation, amortization of plant adjustments, and taxes, show an increase from \$20,413,263 in 1944 to \$35,147,928 for 1948. The company's estimate for 1949 was \$36,679,000 while the staff's estimate was \$36,578,000. The difference between the two estimates is not

substantial and for the purpose of this proceeding, we are adopting the staff's estimate of \$36,578,000.

During the presentation of operating expenses, it was brought out by both the staff witnesses and the company witnesses that maintenance expense was at a low level and should probably reflect higher costs if the property were to be kept at a high standard of condition. D. E. Karn, vice president and general manager of Consumers Power Company, testified regarding maintenance as follows: "Generally speaking, during the last few years we have not spent as much money on operating and maintenance work as would normally be done and as a result we have some operating and maintenance work that has accumulated." In response to a question as to why that was true, he stated further: "One answer is that since the war years we have been faced with especially heavy construction programs and, along with that, unusual requirements for cash in order to finance the construction work. As a result of the large construction program, a large part of our time has been devoted to construction programs and our entire organization has been spending their time on this type of work with the result that less work was done on operating and maintenance items except for those things which were critical."

The staff, in its study and report, recognized the curtailment of operations and deferment of maintenance subsequent to the war while the large construction program has been under way. This observation of the staff was noted in its chapters on *Production*, *Transmission*, and *Distribution*. Further in this regard, the company's

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Exhibit No. 17, testified to by H. B. Hardwick, comptroller of the company, showed a comparison of unit operating expenses per customer for Consumers Power Company with those for each of 39 class A and B electric utilities in the United States. A summary of this comparison is shown in the following tabulation which gives by classes the average expense per customer:

	Average of 39 Class A and B Electric Utilities in the U. S.	Consumers Power Company
Distribution	\$11.22	\$9.00
Accounting & Collecting	4.16	3.31
Sales Promotion	2.17	1.36
Administrative & General	7.58	5.99

Although such a comparison is not conclusive as to the amount or degree to which Consumers Power Company operations and maintenance may rep-

resent curtailment or deferred maintenance, it does strongly support the company's claim for the need for increased expenditures.

It is the duty of Consumers Power Company to operate and maintain its property in such a manner and condition as to render a high standard of service to its customers and this Commission will insist that all reasonable steps be taken to insure that this be done.

The staff, in its report, accepted the company figures for depreciation and amortization. This conclusion was reached by the staff after a detailed study of the depreciation accrual and reserve. Following is a summary comparison of revenues and expenses between the company and staff for the estimated year 1949, together with our findings for each item:

	Company	Staff	Commission
Gross Income:			
Revenues	\$72,088,000	\$73,618,000	\$72,838,000
Operating Expenses	36,679,000	36,578,000	36,578,000
Additional Maintenance	750,000	—	750,000
Depreciation	7,930,000	7,930,000	7,930,000
Amortization	300,000	300,000	300,000
Taxes	10,936,000	11,639,000	11,058,000
Rev. Deductions	56,595,000	56,447,000	56,616,000
Net Income:	\$15,493,000	\$17,171,000	\$16,222,000

It may be observed from the above tabulation that the company's estimate for net income is \$15,493,000 while that of the staff is \$17,171,000. From our review of all the facts presented in the record, we are of the opinion that a fair and reasonable estimate for net income for the year 1949 is \$16,222,000.

Rate Base and Rate of Return

[1] In this proceeding the matter of the proper approach to a rate base

has been vigorously challenged to the attention of the Commission. We have been urged in most forceful language, both in oral argument and in the brief filed by the company, to pay heed to the statutes and decisions of this state; and, in compliance therewith, to determine and adopt a rate base which is the present fair value of the property of the company used and useful in its business as a public utility.

Because of apparent confusion upon

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this subject in this as well as in other rate cases before this Commission, and because of the expressed belief on the part of even members of the Commission staff that this Commission is committed to the doctrine of original cost or prudent investment, we believe that it is high time that this matter should be decided and announced for once and for all.

In regulatory parlance, states and Commissions have been divided into various categories upon this subject. Some Commissions and states are recognized as "fair value states," others as "original cost states," others as "reproduction cost new,"—depending partly upon statutory requirements and partly upon fundamental regulatory philosophy. The states of Pennsylvania and Indiana, for example, are commonly known as "fair value" states. California falls into the category of "original cost." Ohio proceeds upon the theory of "reproduction cost."

We believe that we must look first to the statutory law of this state and, in so doing, we are confronted at the threshold with the provisions of § 7 of the so-called Electric Transmission Act, being Act 106 of the Public Acts of Michigan for 1909 (Mich Stats Anno § 22.157), which provides, in substance, that upon a complaint in writing relative to the price of electricity, the Commission shall investigate the complaint and may fix the price of electricity to be charged. The statute provides:

" . . . In determining the proper price, the Commission shall consider and give due weight to all lawful elements properly to be considered to enable it to determine the just and reasonable price to be fixed for supplying

electricity, including cost, reasonable return on the fair value of all property used in the service, depreciation, obsolescence, risks of business, value of service to the consumer, the connected load, the hours of the day when used, and the quantity used each month . . . "

At the close of the hearing in this case, oral argument was had before the Commission. The assistant attorney general argued that the quoted provision could apply only to a complaint in writing regarding electric rates, from which he contends that the provision would apply only to a complaint contemplated by the statute. We do not adopt this contention. This is the legislative expression upon this subject; and even though not confined to a complaint, we believe that it is an announcement of the legislative policy of this state upon the matter of fair value. We can see no logical reason why we should consider fair value in the case of a complaint and original cost in some other case.

This subject was before the supreme court of Michigan in the case of Public Utilities Commission v. Michigan State Teleph. Co. (1924) 228 Mich 658, PUR1925C 158, 200 NW 749. In this case the Commission had fixed and determined rates for telephone service, and upon the refusal of the company to comply with the order of the Commission, a mandamus was sought in the supreme court to compel compliance. Although mandamus was denied on the general ground that the Commission committed error in its treatment of the depreciation reserve, yet the supreme court did discuss and pass upon the matter now before us. Their statement upon this subject is

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most significant, forceful and instructive where they said (228 Mich at p. 665, PUR1925C at p. 163): "Some contend that the proper basis for valuation is prudent investment cost. . . . But it is settled that the rate base is present fair value as defined in *Smyth v. Ames* ([1898] 169 US 466, 42 L ed 819, 18 S Ct 418) and in the *Minnesota Rate Cases* (1913) 230 US 352, 57 L ed 1511, 33 S Ct 729, 48 LRA NS 1151, Ann Cas 1916A 18. Computing depreciation (although perhaps convenient to accountants and bookkeepers), on investment cost, or book cost, as distinguished from present fair value, must be rejected."

Later, in discussing this matter under the heading of "fair value," the court says: "The rules and elements for consideration in determining fair value are so well known to those interested in the question that we shall not quote from the cases." (PUR 1925C at p. 169.) The court then cited numerous U. S. Supreme Court decisions, and in effect instructed this Commission and the bench and bar of this state that fair value, as defined and enunciated in the cases cited, was the basis upon which a fair rate of return is to be allowed in the state of Michigan.

In the case of Public Utilities Commission v. Michigan State Teleph. Co. *supra*, the Commission had before it numerous computations of the value of the company's property, ranging from original cost to reproduction cost new, and various other methods. In the order of the Commission, *Re Michigan State Teleph. Co.* (1922) PUR1923A 30, 122, no one of these valuations was singled out and adopted but the Commission merely said:

"Upon a consideration of all the evidence, the present fair value of the used and useful property of the Michigan State Telephone Company as of December 31, 1921, including going value and considering book cost, the engineers' estimated average cost, based upon the estimated average unit costs for a 10-year period, a 5-year period, and a one-year period, the history of the plant, the period of construction, its present condition, depreciation, obsolescence, inadequacy, and necessity for supersession, the demand for increased plant facilities, the existence of unused plant facilities, the present tendency of prices and all other facts and circumstances bearing upon the present fair value of the company's used and useful property in Michigan is, for the purposes of this case, fixed at \$47,500,000."

This indicates clearly that in 1922 this Commission recognized and adopted fair value as the proper basis for rate making, and we see no reason for any change from this approach.

While it is true that the cited case relates to telephone rates, yet it is the pronouncement of our supreme court upon this subject and we cannot see any reason for the application of a different principle to electric rates, especially in view of the language of the statute above quoted. In *Smyth v. Ames*, *supra*, the Supreme Court of the United States said this: ". . . the original cost of the construction, the amount expended in permanent improvements, the amount and market value of its bonds and stock, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the

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sum required to meet operating expenses, are all matters for consideration, and are to be given such weight as may be just and right in each case. We do not say that there may not be other matters to be regarded in estimating the value of the property. What the company is entitled to ask is a fair return upon the value of that which it employs for public convenience." (169 US at p. 547.)

It may be claimed that the present position of the Commission is inconsistent with its decisions in the Michigan Bell Rate Case (1948) T-252-48.16, 75 PUR NS 436, or the Detroit Edison Case (1949) D-1722-49.1, 78 PUR NS 360. We point to these distinctions: First: In the Michigan Bell Case the company presented its entire case upon the original cost theory, and in fact it was stipulated that no evidence of any other value would be presented. This Commission determined that the rate of return allowed in that case was fair and reasonable under all the circumstances.

Second: In the Detroit Edison Case, although evidence was presented in support of values other than original cost, yet in our decision we sought to demonstrate that we were using the original cost value merely as a test of the reasonableness of the rates determined by the order. It is significant to note that the order granted the entire request of the company and resulted in a rate of 5.25 per cent upon the original cost valuation. Under such circumstances the company surely could not claim that its property was being confiscated.

We are not unmindful of the decision of the Supreme Court of the United States in Federal Power Com-

mission v. Hope Nat. Gas Co. (1944) 320 US 591, 88 L ed 333, 51 PUR NS 193, 64 S Ct 281. We realize that the decision of this case marked a significant change in the attitude of courts and Commissions toward the question of fair value, original cost, and other various philosophies. In the Hope Case, the court declined to set aside the order of the Federal Power Commission because based upon original cost as contrasted to fair value, and held in substance that the basis of value was not controlling so long as the end result of the order was found to be reasonable.

Following this decision the trend toward the cost base swept through and fairly engulfed the industry as well as regulatory bodies. In times of comparatively stable prices corresponding in general to cost of production, it is relatively unimportant whether original cost or present fair value be adopted. Surely the original cost theory commends itself by sheer simplicity of administration, but during inflationary periods it assumes alarming aspects and it may equally prove to be alarming during a period of deflation. From our viewpoint, however, we cannot indulge in a choice between the fundamental philosophy of original cost on the one hand and fair value on the other. We believe that we are directed, not only by the legislature but by the Supreme Court, in the course which we are to pursue upon this phase of this troublesome question. In other words, both our legislature and our Supreme Court have told us that we are to operate upon the basis of fair value.

Our decision upon this subject must, by no means, be taken as discarding

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the soundness of original cost for accounting purposes, nor are we discarding original cost as a very important and vital element to be considered in determining the ultimate question of the fair value of the property.

As we see it, the determination of fair value is a matter of judgment. It is to be exercised by the Commission after giving careful consideration to all the various elements entering into the formation of a sound, reasonable, and intelligent judgment as to the present fair value of the property of the utility used and useful in its business.

We are considering this question at a time in the economic history of this country when we are experiencing the most violent inflationary period of our national life. The evidence shows that the facilities and property of this utility have been constructed and acquired over a period upwards of thirty-five years and it is incredible that fair value measured in 1949 dollars is not in excess of the original cost of construction or acquisition. If it is worth anything more than its original cost, it necessarily follows that in determining its present worth, we are departing from original cost as the sole criterion of value.

Among the things to be considered in determining a rate base is "the probable earning capacity of the property under particular rates prescribed" (*Smyth v. Ames*, *supra*, 169 US at p. 547); yet if we indulge in the vicious circle indicated by the philosophy that the sale or exchange value of a plant depends largely upon what it will earn, and what it will earn depends upon its rates, and if value depends on rates and if rates are dependent upon value, then the whole scheme of rate making

is reduced to an absurdity. It is therefore incumbent upon this Commission to exercise its sound judgment in fairness to all concerned in determining the fair value of the property in question, together with a fair rate of return upon the value as so determined. Upon the quality of this judgment depends the soundness of the end result.

Considerable testimony was presented upon the matter of rate base and fair value. The staff developed an original cost rate base by deducting from the gross electric plant the depreciation reserve and adding an allowance for working capital. Two computations of this type were presented by the staff, one representing a weighted average rate base for the year 1949 of \$241,395,000, and an unweighted average rate base of \$247,955,000. Both of these bases included additions to plant made in 1949 for less than a full year. If all the net additions to plant were included for a full year, the rate base on the original cost formula at the end of the year would be \$264,733,000. This figure, however, was not presented in the staff's testimony, but its component parts are included in the staff's Exhibits 12 and 14.

The company, in its Exhibit 53, gave its estimate of the original cost less depreciation of its electric plant at the end of 1949, to which it added \$29,000,000 for claimed plant deficiencies and estimated working capital requirements of \$17,159,000. This computation resulted in a figure of \$318,886,000.

In Exhibit 52 the company developed two rate bases which included plant at a reproduction cost new value. One base of \$366,533,000 was given which included the electric plant valued

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at reproduction cost new a price levels based on the average for the five years preceding January 1, 1948. A second figure of \$412,721,000 was given reflecting electric plant valuation based on price levels at January 1, 1948. The valuations included in Exhibit 52 were developed after an extended physical appraisal of the properties by Jensen, Bowen, and Farrell, a firm of consulting engineers retained by the company. The rate bases shown include deductions for depreciation and additions for working capital.

The Commission has before it in this record possible rate bases ranging from a low of \$241,395,000 to a high of \$412,721,000. The company, through the testimony of its witnesses as well as in oral argument, maintained that a proper rate base is the fair value of its property and that such a value lies somewhere between the original cost and the reproduction cost new computations.

Witness for the company, J. Samuel Hart, consulting engineer, testified that in his judgment the present fair value of the company's electric property was \$350,000,000. He stated that this was based on his knowledge of Consumers Power Company, of the territory which it serves and the principal industries therein, the type and character of customers served, of the character of the electric generating equipment, of its adequacy to serve existing loads, of the type and adequacy of its transmission distribution facilities, of the company's construction and maintenance programs, and of all the other factors which go to determine fair value as described in the electric transmission act.

Mr. Justin R. Whiting, president of

the company, in answer to the question "In consideration of your experience in utility fields and based upon the evidence in this case which you have testified that you have heard, do you have any opinion as to what the present fair value of the electric property should be in this proceeding?" said, "It is my opinion that the fair value of the property used and useful in electric service is neither original cost nor reproduction cost but it is at a point between these two extremes . . . After considering all the factors, it is my opinion that the fair value of the property used and useful in the electric service, including necessary working capital, is from \$337,000,000 to \$345,000,000."

We have previously set forth our reasoning that a proper rate base must be the fair value of the company's property. In making a determination of the fair value, we have considered carefully the original cost, the reproduction cost new of the property, the depreciation, value of the service to the consumer as exemplified by a comparison of rates with other electric utilities in the state of Michigan as well as with other electric utilities in the United States, and we are of the opinion, after due and careful consideration of all of the lawful elements properly to be considered, that for the purpose of these proceedings the fair value of Consumers Power Company's electric property, including an allowance for materials, supplies and working capital, is \$330,000,000, and we so find.

[2, 3] In determining a reasonable rate of return, we deem it necessary to consider the cost of money, the company's financial structure, its construc-

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tion program, and its need for raising additional capital.

Staff witness Dr. Ralph E. Badger, an economist and financial expert, testified that the over-all cost of money to Consumers Power Company based on a "standard" capital structure was 5.8 per cent and that for the electric department alone would be at the rate of 5.7 per cent. Dr. Badger did not relate his cost of money figures as being applicable to any determination of fair value.

Witness Herrman for the company, in his Exhibit 35, showed a cost of money to Consumers Power Company of 5.56 per cent. He testified that, in his opinion, "Something in the neighborhood of 6 per cent might represent a reasonable rate of return to be applied to the present value of electric property of Consumers Power Company."

Witness Whiting for the company testified that the rate of return to be applied to valuation of property was a matter of judgment, after considering and giving due weight to relevant factors not taken into account in determining value of the property. He stated: "Such factors, of course, start with the cost of money and the increase that will take place therein as we increase the ratio of our common stock equity. Thus, I would consider 6 per cent to be a minimum which I believe is very conservative when consideration is given to: One, risks of the business; that is, that we are at present in a prosperous period and the level of our business can decline if economic conditions change; two, the value of the service to the customer, which is well above existing rates, as exemplified by Exhibit 47 which shows our

average domestic rates at present to be roughly 30 per cent below other privately owned utilities in the state; and three, certain cost of operation shown in Exhibit 51 to be much below similar cost of operation of such companies."

After a careful examination of exhibits and testimony relating to rate of return presented in the record of this proceeding, we are of the opinion that a fair rate of return to be applied to the fair value of \$330,000,000 should be 5.7 per cent. This will yield net earnings to the company of approximately \$18,810,000.

Conclusions

[4] Testimony has been given which has suggested several avenues of approach for making rates. There has been developed by the staff a rate base using net original cost. There has been presented by the company elements for determination of fair value and it has strongly urged that the Commission is required by statute to use this approach in the determining of fair and reasonable rates. There has been further presented by the company earnings requirements calculated as necessary to raise additional common stock without dilution of the existing common stock. Although it is true that revenue requirements necessary to attract capital is an important consideration in determination of fair rates, we reject the proposition that the Commission is bound to support any price level of the company's securities.

[5] It is our opinion that the rate of return of 5.7 per cent on an established fair value of \$330,000,000 will result in ample revenues to enable the

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company to meet its immediate expansion needs and to improve its capital structure by the sale of equity or common stock. The company recognizes, and the Commission insists, that the ratio of fixed-charge capital, now amounting to approximately 70 per cent of the total capital structure, be reduced by the sale of equity capital to more nearly approach the ideal of a 60-40 ratio recommended by Dr. Badger.

Further, the increased revenues afforded by this order will enable the company to bring its maintenance program up to a more adequate level.

The Commission is cognizant of the need for expansion and takes into consideration the fact that there is a backlog of approximately 9,000 customers awaiting service; that the standby margin of generating capacity of this company is below the level of safety; that this company serves a very important territory in Michigan, comprising 53 counties with a population in excess of 2,250,000 people and includes such industrial centers as Pontiac, Flint, Saginaw, Bay City, Muskegon, Grand Rapids, Kalamazoo, Battle Creek, and Jackson and scores of smaller cities which have, in recent years, become industrialized because of a decentralization policy; also, that these many large and small industrial centers are tied in and geared to the whole manufacturing industry of this and other north central states.

In arriving at these findings, the Commission has taken into consideration the fact that the applicant company was, until October of 1949, under the domination of a holding company which owned 90 per cent of its common stock.

To us it is more than a mere coincidence that, while this company's common stock was so controlled, earnings were kept at a high level and maintenance expenditures were far below the average of 39 class A and B electric utilities in the United States as previously stated herein.

We hold that the public interest is directly affected by the quality of maintenance of the property of this company and that public welfare of over 2,000,000 people in the territory served is directly concerned. We recognize that rate making is a continuing process, and the critical and continued surveillance of this Commission will be directed toward all phases of future operations and particularly to the effect of this order upon the future relationship of a maintenance policy on the one hand and a dividend policy on the other.

The test year in reviewing the company's operations has been 1949. The net earnings for this year were found to be \$16,222,000. Deducting this from the \$18,810,000, leaves a deficiency of \$2,588,000. To yield this amount requires an increase in gross revenues before taxes of \$4,180,000.

McCarthy, Chairman, dissenting: I find myself unable to agree with Commissioners White and Marshall in their considered conclusions as expressed in the majority opinion filed in the above-entitled proceedings, for two basic reasons. First, I am wholly unable to accept their conclusion that the "fair value" rate base, as they have evolved and defined it, is something specifically and unequivocally required by mandate of § 7 of Act 106, Public Acts of 1909, as amended, being the so-called "Electric Transmission" stat-

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ute, nor can I accept their judgment figure of \$330,000,000 as representing the present fair value of applicant's electric property, computed by them upon such a premise.

Second, I am unable to find myself in entire accord with them in respect to the reasonable earnings requirements of applicant company. I recognize that the fixing, by a regulatory body, of rates to be charged by a public utility to its customers requires the utmost demonstration of fair, reasonable, intelligent thinking and judgment on the part of each of the members of the regulatory body, to the end that the resultant product will be a just and reasonable rate to be charged the users of the marketed services of such utility, based upon a just and reasonable return upon the fair value of the property of such utility devoted to the public service, but that upon such matters the minds of reasonable men may not agree.

However, even though I feel and appreciate that my brothers have approached the instant problem of rate making in the within proceedings studiously, openly, carefully and with integrity, it is my firm conviction that the vehicle which they have adopted and utilized in so doing, namely, their own, and in my opinion improper, interpretation of the aforesaid statute, is unrealistic, faulty, and unsound from an administrative and regulatory standpoint, not well-founded in law, and withal accompanied by a veritable Pandora's Box of rate-making difficulties and hazards, which when opened will lead to nothing but resulting confusion, uncertainty, and great expense to all concerned in future rate cases coming before this Commission, or at

least until the legislature or the courts have laid down a definite, unequivocal pattern of rate making for this Commission to follow. Until the latter event occurs, I am inclined to follow what to my mind is a reasonable and just interpretation of the existing and applicable regulatory statutes.

I appreciate that in regulatory language certain of the several states of the United States have been divided into various categories and distinguished by their respective approaches to the problem of fixing rates, particularly as to the adoption of the rate base itself. It is true that some states, and of course their respective regulatory agencies, are known as "fair value states," "original cost states," "reproduction cost new states," depending wholly or in part upon the applicable statutes or fundamental regulatory philosophy, or a combination of both. While there are other denominated concepts of rate making, such as prudent investment, current cost, current structural value, net investment, and the like, yet the three first named remain, and for all practical purposes, are still the only basic concepts of rate making. It is matter of opinion, and in the instant case disagreement, as to whether or not Michigan is an "original cost" state or a "fair value" state. It is my considered opinion, based upon the matters brought to my attention during my relatively short tenure of office as a member and Chairman of this Commission, and as a result of my earlier studies and knowledge, that Michigan, while considered as being in the category of an "original cost" state, is actually a "fair value" state, because it is and has been for some time past understood and ac-

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cepted that "fair value" is, in Michigan in generalized terms, original cost, less depreciation, plus working capital. In other words, "fair value" in Michigan is, with but minor variations, what has been variously denominated as "original cost," "prudent investment," or more recently "net investment." Certainly, reproduction cost new has been definitely and emphatically rejected in this state and "fair value" must necessarily be something less than that.

It will do no harm and to the contrary might well be helpful at this juncture to again set forth in pertinent part the particular section of the statute upon which my brothers rely in establishing the rate base they have employed in arriving at the end result set forth in the majority opinion, said statute reading as follows:

" . . . In determining the proper price, the Commission shall consider and give due weight to all lawful elements properly to be considered to enable it to determine the just and reasonable price to be fixed for supplying electricity, including cost, reasonable return on the fair value of all property used in the service, depreciation, obsolescence, risks of business, value of service to the consumers, the connected load, the hours of the day when used, and the quantity used each month:" (Mich Stats Anno § 22.157.)

The foregoing statute flatly implies first of all that the regulatory body has full knowledge and understanding of what constitutes "all lawful elements properly to be considered to enable it to determine the just and reasonable price to be fixed for supplying electricity," because the legislature has

not seen fit to categorically enumerate all of these in the statute itself. This is made manifest by the legislative injunction that certain therein particularly enumerated elements be considered by the Commission in rate-fixing matters. The legislature did not say that the regulatory body must fix rates upon any single one of these elements. Parenthetically, it is quite obvious that if consideration were confined only to one of the several lawful elements, the end result would undoubtedly be an unreasonable and unlawful rate. Yet, by the same token, the legislature has not said what particular weight, if any, must be given to any one or all of these inferred and specifically named lawful elements, the legislative mandate being only that "due weight" be given these. It necessarily follows that if the regulatory body conscientiously, seriously, and honestly gives due weight and consideration to each and every one of these elements, but in the end rejects one or more of them, such rejection, either in whole or in part, certainly does not constitute the giving only of "lip service" to the directives of the statute.

I mention the foregoing elements particularly because it is noted that the statute requires that the Commission consider "cost," although not specifying what particular cost the legislature had in mind. However, you may very properly assume that the legislature intended "cost" to mean original cost of the plant devoted to the public service, and the Commission was to consider this, just the same as it was to consider "reasonable return on the fair value of all property used in the service." Certainly, to accept the interpretation of "fair value" as adopted by

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my brothers in their opinion would mean that the words "depreciation," "obsolescence," "risks of business," "value of service to the consumer," among other things, were surplusage in the statute, under the authority of the decision of the Michigan supreme court in the case of Public Utilities Commission v. Michigan State Teleph. Co. (1924) 228 Mich 658, PUR1925 C 158, 200 NW 749. The latter case is the one in which the supreme court held that the taking of "depreciation" from a "fair value rate base" constituted a double taking of depreciation; therefore, for this reason, and apparently that reason alone, the order of the Commission was unlawful, and was accordingly set aside. It is my understanding of the law that all words in a statute are to be given full meaning and to me at least this means the statute gives wide latitude to the Commission in making its determinations. The same analogy would apply to the other elements set forth in the statute as requiring consideration by the Commission. Further, the statute, to my mind, speaks eloquently of the desire of the legislature that the utility be given a fair return on its property devoted to the public use and gives its mandate that the Commission must not act arbitrarily, capriciously, or without due consideration of *all lawful elements* when exercising its rate-fixing prerogative. To my mind the statute is to be viewed in the light of reason and common sense, to the end only that the rates as fixed be just and reasonable.

It is not without point at this juncture to note that another case cited by my brothers, *Smyth v. Ames*, 169 US 466, 42 L ed 819, 18 S Ct 418, was decided in 1898, just a few short years

prior to the enactment of the statute presently under consideration, but that the Michigan statute did not incorporate all of the elements enunciated by the Supreme Court in *Smyth v. Ames* as being criteria in determining the issue of just compensation to a public utility. True it is that most of the elements found in *Smyth v. Ames* were included, but our Michigan legislature must be presumed to have purposely left the door open to exercise of reasonable discretion and judgment by the Commission, without placing the Commission in a strict legislative strait jacket. Further, it is most significant to note that the more recent case of *Hope Nat. Gas Co.* (1944) 320 US 591, 88 L ed 333, 51 PUR NS 193, 64 S Ct 281, had not at that time been decided, and it is beyond contention that the *Hope Case* has reflected and influenced the more enlightened, modern approaches and practices presently in effect coincident with the problem of rate making.

While I cannot with any propriety or assurance state what our Michigan supreme court would or might have done at the time of its decision in the *Telephone Case*, *supra*, had the *Hope Case* been already handed down at that time, yet I feel the modern and realistic viewpoint established and accelerated by the *Hope Case* would have impelled our own supreme court to veer from acceptance of the speculative, conjectural, and unexplained flat judgments of the "fair value" approach and step on more solid ground, just as readily as our courts and regulatory bodies have since almost universally rejected the reproduction cost new basis, choosing instead to adhere to a tangible and determinable rate base,

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one not subject to the whims and caprices of individual judgment, however well-intentioned, a base clearly and definitely related to the dollars invested by the owners of the utility, and one not subject to the rise and fall of price indexes and influence of economic cycles. Two questions may properly be raised at this point. The first question is, should the ratepayers be required to pay a return on money not actually invested in the property. The second question is, should security purchasers pay an inflated price for the company's common stock based upon a value of stock not represented by actual dollars invested.

It is contended by my brothers that "fair value" for rate-making purposes is the "present fair value" of the property of the utility devoted to the public service, and it would therefore follow that it need not be and is not related to the dollar investment of the owners of such utility in such plant, nor to the reasonable earnings requirements of such utility, nor to its ability to attract new capital. In other words, this concept places the utility in the same bracket as any competitive business and lays aside other factors or elements which in such case should properly be considered, such as the advantage of investment in a regulated monopoly, generally serving a selected area, free from the fears or risks generally incident to unregulated businesses in the free and open competitive market.

It is my view that "fair value" is that value which is fair to the investor as representative of the dollars he has placed into the public utility enterprise, a reasonable view when weighing and balancing, as we should, in the regulatory field, the respective investor and

consumer interests. Further, that the investor is entitled to a reasonable earning upon that dollar investment, an investment which, because of the necessary limitations and restrictions of the regulatory process, should not be unreasonably subjected to the vagaries of the economic cycles of inflation or depression. It is quite evident that in times of depression, the fair value of the plant in service, as my brothers have defined it, would be less than the original cost of such plant, and the revenues the utility would be permitted to earn at such depressed period, under the "fair value" concept of my brothers, would be less in amount than sufficient to meet the ordinary operating expenses of the utility. Would not the investor, at such time and under such a formula, cry out "confiscation" and demand relief at least upon an "original cost" basis? In the same vein, it is quite logical that if the investor should be enabled to capitalize upon his investment at the expense of the ratepayer, in times of inflation, to the extent that he is permitted to earn on the temporary enhancement of the value of his property, as in the open competitive market, should he not then be required to patiently submit to legal confiscation of his property by reason of declining values during times of depression, just as in any other unregulated business?

I do not find in the cases cited by my brothers any injunction by our Michigan supreme court that Michigan is a "fair value" state, as defined in the majority opinion. At best the Telephone Case, *supra*, was dicta, and the supreme court passed only upon the instant matter then before it, a writ of mandamus, upon different circum-

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stances, in a matter affecting an entirely different type of utility, operating under an entirely different statute. If such were the case, then certainly the Commission has not harkened unto the fiat justitia in recent rate matters having come before it, to name several, to wit:

(a) Re Michigan Bell Teleph. Co. (1948) T-252-48.16, 75 PUR NS 436, wherein all evidence submitted to and considered by the Commission was on an "original cost" basis.

(b) Re Detroit Edison Co. (1949) D-1722-49.1, 78 PUR NS 360, 373, wherein three "computed rate bases" were submitted and considered, but end result was tested as to reasonableness by application of an "original cost" rate base.

(c) Re Consumers Power Co. (Gas) (1949) D-2948-49.2, 78 PUR NS 315, 326, 327, wherein company submitted evidence on "reconstruction cost new" basis but which was rejected by Commission on grounds: that it had no foundation in the law or equities of rate regulation; that determination of fair value of utility property requires a consistent standard, whereas R.C.M. (reconstruction cost new) involves consideration of continuously changing values and affords no such standard; not realistic; does not represent an actual outlay of money by investors; attempts to attach a value of property determined under competitive conditions in sale of its products to property devoted to public use under regulated monopolistic conditions; reflects merely change in purchase value of investors' dollars while giving no similar benefit to holders of senior securities as that given to common stockholders. In this proceeding Commis-

sion found "fair" value of petitioner's property devoted to its natural gas department to be represented by original cost rate base presented by Commission staff.

(d) Re Consumers Power Co. (gas rehearing) (1949) D-2948-49.8, 81 PUR NS 249, wherein Commission reiterated its earlier "original cost" rate base concept.

(e) Re Michigan Consol. Gas Co. (1949) D-3430-49.2, 79 PUR NS 445, wherein evidence was submitted to and received by Commission on an "original cost" basis and order fixing rates established on that basis.

Many other cases dating from the year 1942 could also be cited as similar examples of the foregoing "original cost" concept. I am mindful that in each of the foregoing matters, no evidence of "fair value," as presented by applicant to the Commission in the within proceeding, was submitted to the Commission. Further, that statutes other than the one in the instant proceedings were involved. Yet, my brothers draw upon adjudicated cases not involving sale of electric energy by a public utility to bolster the propriety of adoption of "fair value" as set forth in their opinion.

Let us contrast the "original cost" presentations of the Commission staff in the within proceedings with the "fair value" presentations of applicant company. The impact of the uncertainty of "fair value" judgment figures, however well-intentioned, and as ably expressed by persons of demonstrated stature and experience in the field of public utilities appraisals and valuations, when contrasted with an "original cost" rate base, could be no better illustrated than by the testimony

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in the instant case. Mr. Farrell of Jensen, Bowen, and Farrell, consulting engineers, after physical appraisal of the properties of applicant company, submitted the highest figure of all in his Exhibit 52, when he placed the electric plant valuation based on January 1, 1948, price levels at \$412,721,000. In the same exhibit the applicant company sought to establish the value of the electric plant at \$366,533,000 on a reproductive cost new basis, predicated upon the average price levels for the five years preceding January 1, 1948.

Another witness for the company, J. Samuel Hart, consulting engineer, testified that in his judgment the present fair value of the electric property was \$350,000,000. This witness testified on extended cross-examination by the assistant attorney general, and in direct reply to questions by me, that he could arrive at no other figure, because it was based upon all of the factors and physical properties of applicant company which he considered at the time of making his estimate, and that it was a judgment figure which could not be broken down into integral parts. Again, Justin R. Whiting, president of the company, testified that in his opinion the fair value of the electric plant was between \$337,000,000 and \$345,000,000. Finally, my brothers on the Commission find the present fair value of the electric plant to be \$330,000,000. Here is tangible evidence of the vagaries of "fair value" estimates by various gentlemen, all well qualified in their respective fields, who place the value of the electric plant at \$330,000,000 to \$412,721,000, but only one of which, the highest figure,

based upon an extensive physical appraisal of the property itself, represented anything other than a fixed judgment figure incapable of dissection and analysis.

Contrast the foregoing with the "original cost" presentation of the staff of the Commission, an approach or concept contemplated by the Uniform System of Accounts adopted by the Federal Power Commission and subsequently adopted by this Commission under date of September 15, 1937. The first original cost rate base presented by the staff represented a weighted average rate base for the year 1949 of \$241,395,000. The second original cost rate base submitted by the staff was an unweighted average rate base of \$247,955,000. This original cost rate base represents the actual dollars invested in gross electric plant by the owners, i. e., stockholders and creditors thereof, less depreciation reserve, plus an allowance for materials and supplies and working capital. The included elements are thus clearly open to inspection, analysis, and inquiry. Upon this basis the investor's dollar is always considered on a uniform, continuing basis, not subject to the fluctuations incident to economic shifts and changes.

In adopting an original cost rate base for the purpose of determining rates, such a base should normally reflect the average plant in service during the test year rather than the amount at the end of the year. Additions to plant are usually for the purpose of providing capacity to serve new customers and additional load as required. If plant in service at the end of the year is to be used as a rate

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base then the level of income at the end of the year must also be used.

The staff's average rate base for the test year 1949 was \$247,955,000. Petitioner has claimed that the staff's estimate of working capital included in that rate base is too low and that it was not proper to consider the accruals for Federal income tax as being available for working capital. It further alleged that its plant for the year 1949 was deficient to the extent of \$29,000,000, if the proper margin for capacity were to be maintained.

It is not necessary that I pass upon the merits of the company's claims for additional working capital or plant deficiency, but I wish to consider and point out the effect if these items were to be added to the staff's average rate base. The staff excluded \$5,239,000 from its calculated working capital because it maintained that such amount was more than offset by the Federal income tax accrual. Petitioner represented that accruals for Federal income tax are not normally used for corporate purposes. Testimony was offered showing that the average cash balances during 1947 and 1948 exceeded the Federal income tax accrual by two and one-half times. The only year in which the cash balance was less than the tax accrual was during the year 1949. Since cash balances normally exceed the Federal income tax accrual, perhaps Federal income tax accruals should not be considered available for working capital in the instant proceeding. By adding the \$5,239,000 and the \$29,000,000 for plant deficiency claimed by petitioner to the staff's average rate base, a rate base of \$282,194,000 is developed. I do not necessarily consider

this as the proper original cost rate base but only that it represents the maximum upon which rates could properly be made if the company's claims for additional working capital and plant deficiency were accepted.

The next step in this approach to the determination of fair and reasonable rates is consideration of the proper rate of return. I consider the basic factor, as well as the most important element of a fair rate of return, to be the cost of money to the company. Dr. Badger, a financial expert and witness for the staff in these proceedings, developed a cost of money for petitioner's electric department of 5.7 per cent. I would consider this figure to be the floor for a rate of return.

It is generally considered proper to give due weight to elements peculiar to the utility's operations, such as prevailing economic conditions, risks of the business, the trend of the company's operations, efficient management, and value of the service rendered, in arriving at a fair and reasonable rate of return. To reduce such elements to a quantitative per cent is, of course, a matter of judgment. In the instant case I am mindful of the fact that petitioner has just recently been divorced from its parent company, Commonwealth and Southern Corporation, and is now required to stand on its own feet as to its financing and operations. I am also aware that petitioner has a substantial construction program ahead of it and is in need of raising additional capital. Further, that it is highly desirable that such additional capital be raised by the sale of common stock. As to the value of service rendered by peti-

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tioner, it appears that its rates are lower than many other similar utilities, not only in Michigan, but throughout the United States.

With all of these elements in mind, it is my opinion that a rate of return, based on original cost, of $6\frac{1}{4}$ per cent is not unreasonable under the circumstances and facts of the instant case. If the average rate base of the staff of \$247,955,000 were used, net revenue of approximately \$15,500,000 would result. The majority opinion has made a finding that the net revenue for petitioner for the test year 1949 is \$16,222,000. On this basis it is clear that no increase is warranted. However, there may be merit to the company's contention as to working capital and plant deficiency. For the purpose of testing the result of the majority opinion only, we take the rate base of \$282,194,000, which is the staff's average original cost rate base, with the additions for working capital and plant deficiency included, and assuming a rate of return of $6\frac{1}{4}$ per cent, the resulting revenues would be \$17,637,000. Deducting \$16,222,000 as available for the test year, a

deficiency after taxes of \$1,415,000 is indicated. Before taxes this amount becomes \$2,282,000 as the amount which the gross revenues would have to be increased. I do not conclude that such an increase is warranted but merely show the development of such amount as the outside limit of reasonableness when the disputed amounts of additional working capital and plant deficiency, claimed by the company, are granted.

I must conclude, from my considered study and analysis of the record in these proceedings and of the electric statute, that the judgment figure for fair value of \$330,000,000, as found by my brothers, leads to unfair and unreasonably high rates, that a more accurate, more reliable and realistic determination of fair value of the utility plant in service, is exemplified by the original cost rate base developed by the staff, and that the application of such a rate base with due allowance for additional working capital or plant deficiency as may exist, together with the application of a fair and reasonable rate of return, yields a proper level of rates.

ARKANSAS PUBLIC SERVICE COMMISSION

Re Southwestern Bell Telephone Company

Docket No. U-412
February 2, 1950

INVESTIGATION of telephone company base rate areas; show cause order dismissed without prejudice in so far as it directed conforming base rate areas with corporate limits, rate schedules approved, and provisions made as to revision of base rate areas.

Rates, § 541 — Telephone — Base rate area — Municipal boundaries.

1. A telephone company should not be required to make its base rate areas, beyond which it collects mileage charges, conform to corporate limits in all cities, p. 121.

Rates, § 541 — Telephone — Base rate area — Report on revision.

2. A telephone company should make periodic surveys of the base rate situation as applied to each exchange and should report the results of those surveys to the Commission, in order to prevent a lag in the institution of reasonable base rate area changes, p. 122.

Payment, § 16 — Recovery of undercharges — Telephone mileage charges.

3. The burden is upon a telephone company to bill its subscribers for such mileage charges as may be owed at the proper time, or at least within a reasonable period thereafter, since it is unreasonable to expect a subscriber to determine whether he owes a mileage charge or not; and the company should make no retroactive billings for mileage charges on a date more than thirty days after such charges accrue unless such failure to render the proper billing is due to the wilful misconduct of the subscriber, p. 123.

By the COMMISSION: On November 23, 1949, this Commission issued its order requiring Southwestern Bell Telephone Company to appear and show cause why the base rate areas of the company should not be made to conform to the corporate limits of the various cities and towns of this state in all cases where the boundary lines delineating such base rate areas fall within the corporate limits of such cities and towns. This order was issued following the filing with the Com-

mission of several complaints from certain cities that subscribers were being discriminated against by the company because of its failure to expand the various base rate areas as the corporate limits of the cities expanded. The complaints also charged that some subscribers were being billed retroactively by the company for mileage charges not previously requested by the company.

A hearing was held in this matter on January 4, 1950. At the hearing

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the following appearances were entered: (1) Southwestern Bell Telephone Company (hereinafter referred to as respondent) by Blake Downie, its attorney; (2) city of North Little Rock by W. E. Phipps, City Attorney; (3) twenty-five subscribers of Forrest City by Fletcher Long, their attorney.

[1] At the outset of the hearing it was stipulated by the parties that in some cases the respondent's base rate areas do not include all the area within the corporate limits, and that in some other cases the base rate areas extend beyond the corporate limits. It was also stipulated that it is the policy of the company that when, through error or otherwise, a subscriber is not billed the mileage charge, and the error is subsequently discovered, the subscriber is billed for that charge; and also that when a subscriber is erroneously billed in excess of the proper charge, and the error is subsequently discovered, the company refunds the overpayment.

I

The respondent then proceeded to adduce evidence tending to show why the boundaries of base rate areas should not in all cases conform to corporate limits. The evidence reflects that the question of what territory should be included within the initial, or base, rate area has been the subject of continuous evolution for many years. Even the early tariff arrangements were made with a view toward requiring subscribers whose stations were located beyond the densely populated areas to absorb the additional cost of service to them. Sometimes this absorption was by means of actual cash outlay on construction costs, and

sometimes was by means of fixed monthly mileage charges added to the subscriber's bill.

Although the base rate area (we shall use "base rate" area to include the term "initial rate" area, and its antecedents, where applicable) boundaries have often coincided with corporate limit boundaries, this has never been universally the case at any time. Rather, the company has recognized, and continues to do so, that occasionally a municipality may, for some reason not pertinent here, permit the annexation of territory to it which territory is sparsely populated. In such cases the application of the respondent's "density policy" has compelled a divergence between the base rate area boundary and the corporate limit boundary. Likewise, in some cases, municipalities have failed to annex contiguous territory which was densely populated. When that situation developed, the application of the "density policy" required the inclusion of the territory within the base rate area even if it was not within the corporate limits.

After many years of experience in dealing with this problem, the respondent is convinced that for the respondent to adopt a policy of making base rate areas conform to corporate limits would be inequitable, and would result in gross discrimination among its subscribers. The unfairness of such a policy would be even more glaring where telephone rates are made on a statewide basis, as in Arkansas. It would be unreasonable to expect the subscribers in a given rate base area to absorb the cost of furnishing urban service to subscribers in a newly annexed area of another exchange.

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The Commission has carefully considered all the evidence on this point and concludes that it would be unsound regulatory procedure for this Commission to require the respondent to make its base rate areas conform to corporate limits in all cities.

II

The evidence reflects that the officers and employees of the respondent are constantly checking the boundaries of the various base rate areas. When it becomes apparent that there has been, or will probably be, a substantial subscriber shift to or away from a particular area, a report is made to that effect and a proposal is made for altering the base rate area boundary to follow the shift. If the report and proposal are approved by the various policy levels of the respondent, then such change is filed with this Commission for approval. Since the outbreak of World War II the respondent has not kept pace with the tremendous growth and shift in population; consequently, some of its base rate areas in this state have been in need of alteration for some time.

On May 18, 1949, the respondent filed with this Commission an application for a general rate increase and at that time asked the approval of the Commission of changes in its base rate areas of forty-five of the exchanges served by it; however, the respondent did not at that time file revised maps setting out the proposed changes in the base rate areas.

At the hearing in this docket the respondent filed exhibits, and evidence was taken, as to the particular situations existing in (1) Paragould, (2) Forrest City, (3) Little Rock and

North Little Rock, (4) Eudora, and (5) Hot Springs. The Commission thereupon requested that the company file its proposed revised base rate area maps for all of the forty-five towns, and this was done shortly following the hearing. The evidence in the hearing reflected that the proposed changes were made in the exhibited maps as a result of careful surveys by the respondent, and that similar surveys were made in respect to the entire group of forty-five exchange revisions. The Commission has carefully examined all of these revisions and believes that they are reasonable and should be approved.

III

[2] The evidence reflects that there is no logical reason why the respondent should not make periodic surveys of the base rate situation as applied to each of its exchanges in this state and why it should not report the results of those surveys to the Commission. The Commission believes that such periodic reports will prevent the company from lagging in instituting reasonable base rate area changes. These reports need not be complicated. They should indicate (a) whether a base rate area change should be made and, if so, a map reflecting the proposed change should be filed; and (b) if not, a definite statement by the company to the effect that the area has been surveyed and that no change is deemed necessary at that time.

It is the finding of the Commission that such a report could and should be reasonably submitted to the Commission for each exchange at intervals of not to exceed three years; the initial

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interval to run from the effective date of this order.

IV

The statements contained in III above should not be construed to mean that the respondent should discontinue its policy of maintaining a constant check to determine the necessity of base rate area changes. On the contrary, when such needed changes are discovered and approved by the company, the proposed changes should be forthwith submitted to the Commission for approval. In this way the Commission will be able to examine each proposed change as it arises, and the subscribers in one area will not be forced to wait for relief upon the subscriber development in other areas.

V

[3] The Commission has given

careful consideration to the policy of the company of billing subscribers for mileage charges which have accrued against such subscribers during previous billing periods but which, through error or other reason, were not billed at the proper time. The Commission believes that the burden should be upon the respondent to bill its subscribers for such mileage charges as may be owed at the proper time, or at least within a reasonable period thereafter. It is unreasonable to expect a subscriber to determine whether he owed a mileage charge or not. The Commission therefore finds that the company should make no retroactive billings for mileage charges on a date more than thirty days after such charges accrue unless such failure to render the proper billing is due to the wilful misconduct of the subscriber.

UTAH PUBLIC SERVICE COMMISSION

Re Edward Walker Varney, Doing Business As Varney & Sons

Case No. 3111
January 16, 1950

APPPLICATION for certificate of convenience and necessity to operate as special service common carrier of property in intrastate commerce; denied.

Certificates of convenience and necessity, § 12 — Commission jurisdiction — Common motor carriers — Contractor service.

The Commission is without authority to award a common motor carrier certificate to an applicant proposing to render what are essentially services in which materials and labor and knowledge and skill as a contractor, artisan, gardener, or builder would make up the principal elements upon which com-

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pensation would be based and which services do not primarily relate to the transportation of the property of others for compensation.

APPEARANCES: Allen G. Thurman, for petitioner; Harry D. Pugsley, for Salt Lake Transfer and Ashworth Transfer Company; P. W. Fuller, for Fuller-Toponee Truck Co.; S. N. Cornwall, for Rio Grande Motor Way, Inc.; Ray B. Needham, for Bamberger Railroad Company.

By the COMMISSION: This case came on regularly to be heard before the Commission at Salt Lake City, Utah, on the 19th day of September, 1947.

The applicant seeks a certificate of convenience and necessity to operate in special services as a common motor carrier of property in intrastate commerce. The testimony of the applicant clearly and affirmatively shows that the services which he seeks to perform are essentially services in which materials and labor and knowledge and

skill as a contractor, artisan, gardener, or builder will make up the principal elements upon which compensation will be based and are not services which relate primarily to the transportation of property of others for compensation or hire.

We accordingly conclude that the services sought to be performed by the applicant would not bring him within the category of either a common or a contract carrier of property as defined by the statutes of this state, and that this Commission is without jurisdiction to grant applicant a certificate or a permit. (See *McCarthy v. Public Service Commission* [1947] 111 Utah 489, 184 P2d 220.)

It is therefore *ordered* that the application be and the same is hereby denied.

VERMONT SUPREME COURT

City of Newport et al.

v.

Newport Electric Division of Citizens
Utilities Company

No. 1759

— Vt —, 70 A2d 590

January 3, 1950

A PPEAL from Commission order fixing electric rates; reversed
and remanded. For Commission decision, see (1948) 81
PUR NS 449.

Procedure, § 30 — Findings — Evidence to support.

1. A finding by the Commission, in order to be warranted by the evidence, must be supported by substantial evidence in the case, p. 126.

Rates, § 650 — Sufficiency of findings — Disclosure of method.

2. The Commission, although not bound to the use of any single formula or combination of formulae in determining rates, is not thereby relieved from the duty to disclose the method employed to reach prescribed rates so that the validity of its conclusions may be tested by judicial review, p. 127.

Return, § 15 — Presumption as to reasonableness.

3. A presumption that a 6 per cent rate of return is just and reasonable is rebuttable and cannot prevail when there is no evidence to support a finding as to its reasonableness, p. 127.

Return, § 15 — Finding to support allowance.

4. The right of the Commission to reject the testimony of a witness that a rate of return of 8.6 per cent is required for a company to carry on its business does not obviate the requirement that there be substantial evidence on which to base a conclusion that a 6 per cent rate is just and reasonable, p. 128.

Appeal and review, § 19 — Presenting question for review — Reasonableness of return.

5. A public utility company, in order to test the validity of a finding by the Commission as to the reasonableness of return, need not raise the question of confiscation, p. 128.

Return, § 16 — Right to earn.

6. A public utility company is guaranteed by statute not only just and reasonable rates, but also a rate of return on which the rates are based, p. 128.

VERMONT SUPREME COURT

APPEARANCES: Fred E. Gleason, Montpelier, and Milton S. Gould, New York city, for appellant Citizens Utilities Co.; Clifton G. Parker, Attorney General, for the state of Vermont.

Before Sherburne, CJ., and Jeffords, Cleary, Adams, and Blackmer, JJ.

JEFFORDS, J.: This is an appeal from an order of the Public Service Commission. From the findings of fact it appears that the Citizens Utilities Company, hereinafter called the company, on February 18, 1948, filed with the Commission revised rates for electric service which were in effect increases and that these rates were duly protested. The new rates went into effect on March 19, 1948, by the filing of the required bond.

The Commission found that these new rates are not just and reasonable. It then found the rate base on which the company was entitled to earn a return. It found that a return on this rate base of 6 per cent is just and reasonable. It made findings as to the operating revenue of the company under its rates prior to the increase and found the necessary amount to be added thereto to provide the operating income necessary to cover the 6 per cent rate of return. The Commission then set forth rate schedules in its order which it found would produce the required operating income in a normal water year. It found that such rate schedules were just and reasonable.

The only exception set forth by the company in its bill of exceptions which is here urged is to certain findings of fact made by the Commission. It is claimed on the part of the state, which opposed the increase in rates and by

its attorney general briefed and argued the case in this court, that the exception is too general to be available here as no particular finding is pointed out and no particular fault is indicated. It cites several of our cases in support of its claim.

The exception is very poorly worded. If the language and punctuation used to set it forth were to be given a strict literal construction, the result would be as claimed by the state. But although its form is bad, it is clear that it was intended as an exception both to the finding that a rate of return of 6 per cent is just and reasonable and to the order carrying this finding into effect on the ground that neither is warranted by the evidence. Although this finding is not mentioned specifically by number or recited, it is apparent that it was intended to have the exception apply thereto, as it is the only one in which the rate of return of 6 per cent is mentioned. The particular fault pointed out is that the finding is not warranted by the evidence. In determining the sufficiency of the exception, the fact that the findings and the order were not filed separately but are contained in one document is taken into consideration. Although the exception is defective in form, we are of the opinion that in substance it is sufficient to pass the tests required by our cases dealing with this subject matter.

No exception to the order is briefed, and there is no available exception to the other findings, so we need give our attention only to the question of whether the finding that a return of 6 per cent is just and reasonable is warranted by the evidence.

[1] In order for a finding to be

NEWPORT v. NEWPORT ELEC. DIV. OF CITIZENS UTIL. CO.

warranted by the evidence, there must be substantial evidence in the case to support it. *D'Amato v. Donatoni* (1933) 105 Vt 496, 502, 168 Atl 564; *Farmers Exchange v. Walter A. Lowney Co.* (1921) 95 Vt 445, 451, 115 Atl 507. This general rule is followed and applied to a finding by a Public Service Commission. *Sabre v. Rutland R. Co.* (1913) 86 Vt 347, 368, 85 Atl 693, Ann Cas 1915C 1269; *Ohio Bell Teleph. Co. v. Public Utilities Commission* (1937) 301 US 292, 81 L ed 1093, 18 PUR NS 305, 57 S Ct 724; *Norwegian Nitrogen Products Co. v. United States* (1933) 288 US 294, 77 L ed 796, 809, 53 S Ct 350; 43 Am Jur 724-727 inc.

The state in its brief neither states evidence nor refers us to any by transcript reference in support of the finding that a return of 6 per cent is just and reasonable. If there is substantial evidence to support this finding the order of the Commission would be affirmed. If not, the cause would of necessity be remanded, with the attendant expense and delay. In order to determine this important question, and to the end that no injustice be done to either the company or the consumers, we have searched the transcript to determine whether there is such evidence in the case, a duty not required of this court. The search was barren in its results. There is no such evidence.

[2] The state cites Federal Power Commission v. Hope Nat. Gas Co. (1944) 320 US 591, 88 L ed 333, 51 PUR NS 193, 64 S Ct 281, in support of its statement that the result reached and not the method employed should control in determining what is a just and reasonable rate. But as pointed out in *Re New England Teleph. & Teleg.*

Co. (1949) 115 Vt 494, 502, 79 PUR NS 508, 66 A2d 135, although this case held that a Commission was not bound to the use of any single formula or combination of formulae in determining rates it is not thereby relieved from the duty to disclose the "method employed" to reach the prescribed rates, so that the validity of its conclusions may be tested by judicial review. In the *Hope Case* the company contended that it should be allowed a return of not less than 8 per cent. The Commission found that an 8 per cent return would be unreasonable but that 6½ per cent was a fair rate of return. The Commission set forth many and various reasons on which it based its conclusion as to a fair rate of return. The Supreme Court held that in view of these stated reasons, it could not say that the annual return to the company which would produce 6½ per cent on its rate base was not just and reasonable. Thus it is seen that in the *Hope Case* the Commission fully disclosed the method it used in determining a just and reasonable rate of return. In the present case no such method is disclosed, nor could it well be without evidence on which to base it.

[3] The state relies on the presumption that the 6 per cent rate of return is just and reasonable. But this presumption is a rebuttable one, *Northern P. R. Co. v. North Dakota ex rel. McCue*, 236 US 585, 59 L ed 735, PUR 1915C 277, 35 S Ct 429, LRA1917F 1148, Ann Cas 1916A 1, and it cannot prevail when, as here, there is no evidence to support the finding. *Petersburg Gas Co. v. Petersburg*, 132 Va 82, PUR1922C 172, 110 SE 533, 20 ALR 542.

VERMONT SUPREME COURT

[4] The president of the company testified that a rate of return of 8.6 per cent was required for the company to carry on its business. He gave his reasons in considerable detail for reaching this conclusion. The state cites several of our cases in support of its claim that the Commission was not bound by this testimony in determining the question of a reasonable rate. It is true that the Commission was not required to accept this figure as the rate of return to be allowed. But this right of rejection as to the 8.6 per cent return did not obviate the requirement that there be substantial evidence on which to base the conclusion that a 6 per cent rate was just and reasonable. *Taylor v. Henderson* (1941) 112 Vt 107, 116, 22 A2d 318.

[5, 6] In support of the finding in question the state says that the company has not raised the question of confiscation. But it was not necessary so to do in order to test the validity of the finding by its exception as taken. By § 9368, Rev Vt Stats of 1947, it is provided that when upon hearing rates are found to be unjust or unreasonable the Commission may order and substitute therefor such

rates as it shall find at the hearing to be just and reasonable. It is apparent from what we have said in this opinion and in the Telephone Case, *supra*, that the finding by the Commission as to just and reasonable rates provided for by the statute must not be arbitrary or capricious whether as to the rates set forth in the order or to the rate of return on which they are based. As shown in the Telephone Case the rates allowed are dependent in amount upon the rate of return which must be determined from all the evidence in the case. Thus the statute, in effect, guarantees to a public utility company that the rates found by the Commission to be just and reasonable shall so be in fact and in law under the tests applied on judicial review. It also, by necessary implication, gives the same guaranty as to the rate of return on which the rates are based. The company could insist upon this right and did not need, in addition thereto, a claim of confiscation.

The order of the Commission is reversed pro forma and the cause is remanded for a hearing de novo in accordance with the views herein expressed.



Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.



Rochester Gas & Elec. Plans Large Program

THE Rochester Gas and Electric Company's construction budget for 1950 provides for additions and improvements to its utility systems estimated to cost \$13,588,805. Of the budgeted amount, \$9,810,279 is for the electric system; \$2,925,340 for additions and improvements to the gas system; and \$853,186 for the steam heating and common utility plant.

The major project proposed for the year is the completion of the installation of the second generating unit at the new Russell steam electric generating plant. The total cost of this second unit is estimated at \$7,337,000, of which approximately \$4,700,000 is expected to be spent during 1950.

U.S. Testing Meets Requirements Of Nat'l Safe Transit Committee

THE UNITED STATES TESTING COMPANY, Inc., announces that it has met the requirements of the National Safe Transit Committee and has been appointed a "Certified Laboratory" by this group, which is sponsored by the Porcelain Enamel Institute, Washington, D. C.

The National Safe Transit Committee was established for the purpose of initiating a practical program for reducing damage to packaged articles during handling and while in transit. The problems of vibration and impact have long been a source of concern to American industries. Now manufacturers in the East have available the services of a modern well equipped laboratory that is able to conduct all tests prescribed by the Safe Transit Committee's Projects 1 and 1A.

The United States Testing Company also offers a consultation service to provide recommendations for the improvement of packaging and packaging materials to meet the National Safe Transit Committee's shipping requirements. These package testing services are backed by the Company's seventy years of experience in industrial testing procedures.

Gould Issues Bulletin on Glass Jar Stationary Batteries

THE GOULD STORAGE BATTERY CORPORATION, Trenton, New Jersey, has published an informative, helpful bulletin (No. GB932) giving detailed instructions on the installation and operation of glass jar batteries for stand-by service, control, telephone, telegraph, emergency lighting, fire alarm, and other stationary installations. The new 8 1/2 x 11 bulletin includes three sections on installation, nine on opera-

tion, and a complete table of finish charge rates and 8-hour discharge rates for 97 different battery sizes and types.

Raymond Ankner Joins Staff of Management Engineering Firm

RAYMOND G. ANKNER, a head accountant for 7 years for the Federal Communications Commission New York Field Office, has been retained as a Utilities and Communications Consultant by Slater-Byrne Management Associates, Business Engineering Consultants.

Mr. Ankner was recently retained in a consulting capacity by the New York Public Service Commission in connection with the pending applications of the New York Telephone Company for increased telephone rates in New York State.

Mr. Ankner, a graduate of New York University, specializes in public utility rate studies and investigations and has appeared as an expert accounting witness in several states involving rates of Bell System companies.

Decals Help Identify Proper Fire Extinguisher

TO help identify and locate the proper fire extinguisher in a hurry, the Meyercord Company, Chicago decalcomania manufacturer, reports the development of three new decal sets for positive selection of three types of extinguishers for fires of: 1) wood, paper, rubbish; 2) electric, gas, chemical; and 3) of any origin except electrical.

Details regarding these copyrighted designs may be obtained by writing the Meyercord Company, 5322 W. Lake street, Chicago.

Ford, Bacon & Davis Names Two New Vice Presidents

THOMAS I. CROWELL, JR. and Charles B. Cooke, have been elected vice presidents of Ford, Bacon & Davis, engineers-constructors, of New York, Chicago, Philadelphia and Los Angeles, according to an announcement by E. S. Coldwell, president.

Mr. Crowell joined the organization in 1936 and since 1948 has been Manager of the Report Department, which makes surveys and reports for the firm's clients on business, management and technical problems.

Mr. Cooke started with Ford, Bacon & Davis in 1911. He has had charge of many comprehensive studies of the problems of transportation and electric utility companies dealing with operations, reorganizations, regulation and programs for modernization.

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This announcement is not, and is not to be construed as, an offer to sell, or a solicitation of an offer to buy, any of these securities.

April 3, 1950

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The Company is offering the above Preferred Stock and 839,628 shares of the above Common Stock in exchange for its outstanding cumulative preferred stock (\$100 par value), Series A 7%, Series B 6½%, and Series C 6%, on the basis of \$50.25 per share of Preferred Stock and \$13.75 per share of Common Stock, as further set forth in the offering Prospectus.

The Underwriters named in the Prospectus have severally agreed, subject to certain conditions, to purchase such shares of the above Preferred Stock and Common Stock as are not issued pursuant to acceptances of the Exchange Offer, which expires on April 12, 1950, including 85,372 shares of the above Common Stock not offered in the exchange which are being offered initially at a price of \$13.75 per share.

Prior to and after the expiration of the Exchange Offer, the several Underwriters may offer and sell Preferred Stock and Common Stock as set forth in the Prospectus.

Copies of the Prospectus may be obtained from such of the several underwriters, including the undersigned, as are registered dealers in securities in this State.

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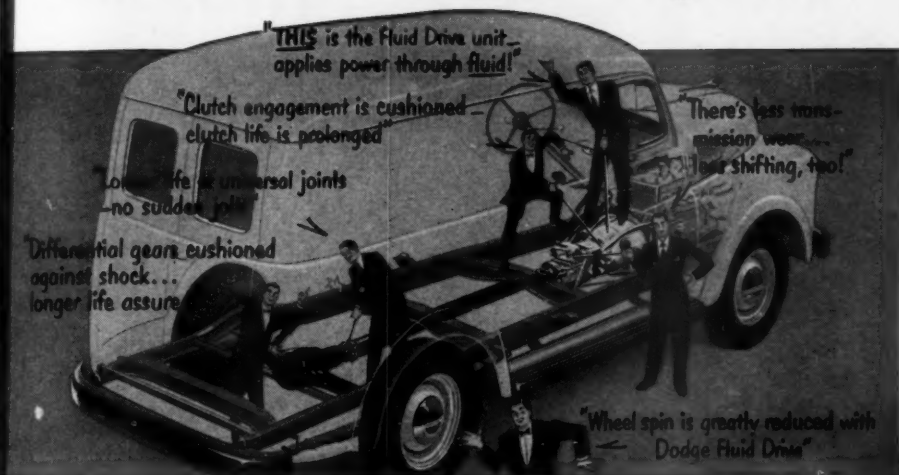
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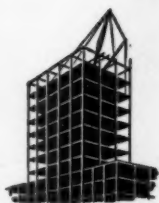
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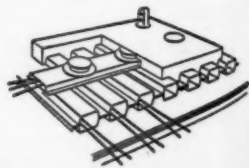


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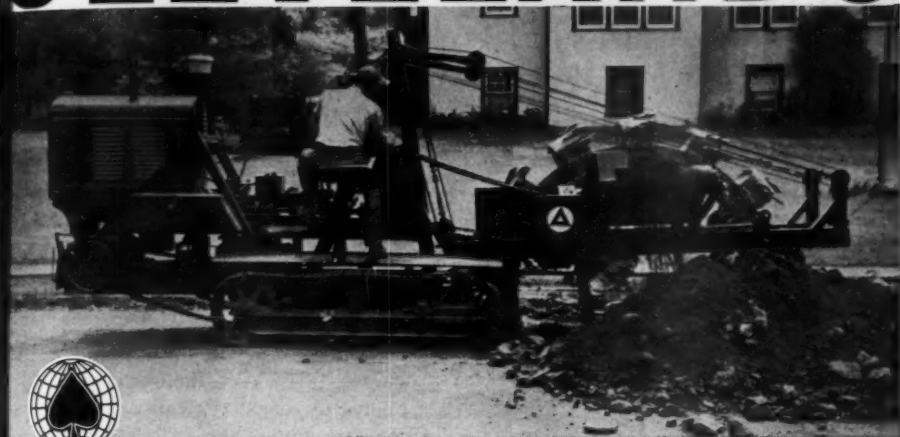
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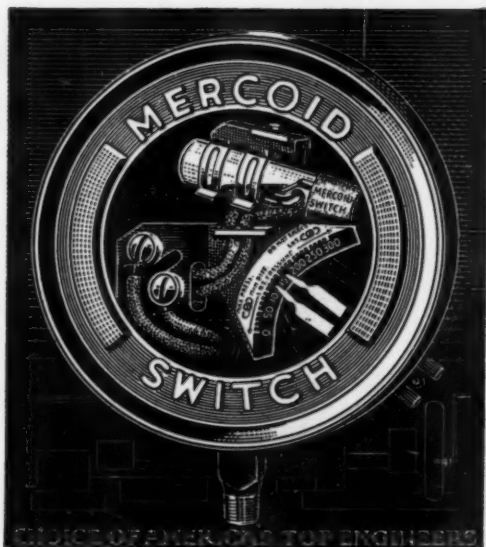
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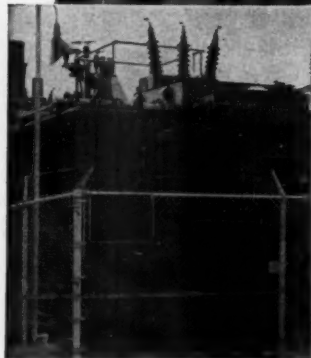
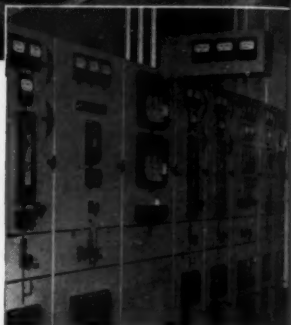
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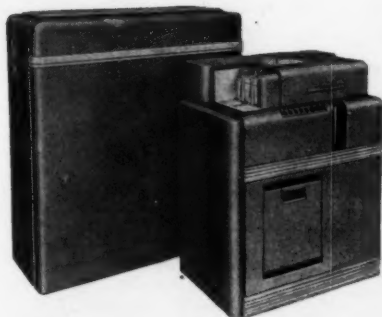
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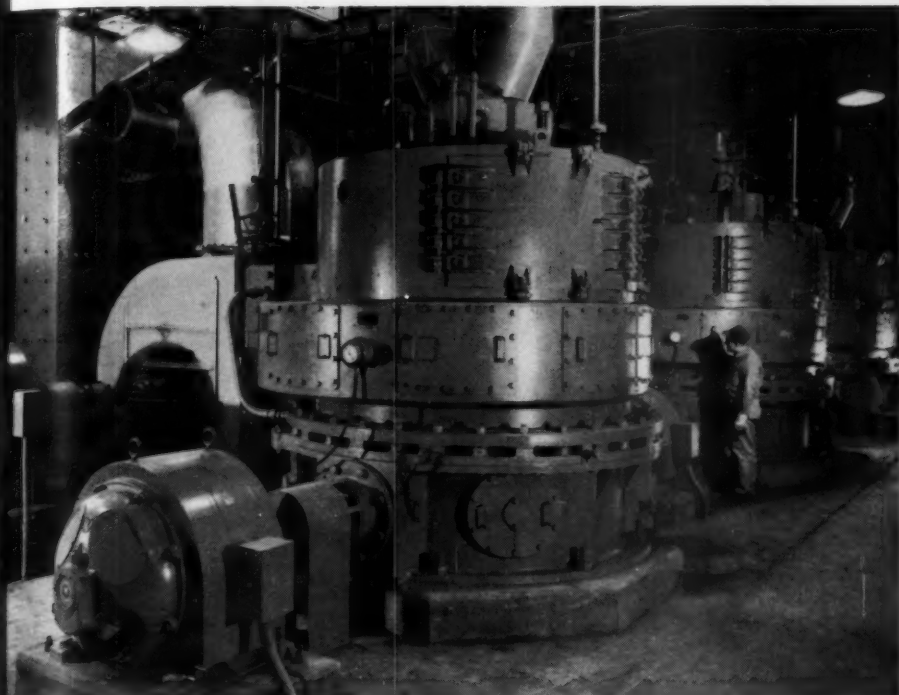


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